IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2829 of 2011(O&M)

Date of decision: 23.5.2019

Gurmeet Kaur …..Appellant

VERSUS

Sukhmander Singh and another .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Manmohan Kaur, Advocate for the appellant.

Mr. I.S. Brar, Advocate for respondent No.1.

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REKHA MITTAL, J. (Oral)

The claimant is in appeal seeking enhancement of compensation on account of death of Gurcharan Singh in a motor vehicular accident that took place on 12.06.2009.

The Motor Accidents Claims Tribunal, Ferozepur (in short 'the Tribunal') awarded Rs.2,95,000/- detailed hereunder:-

Monthly income of the deceased	Rs.4000/-
Deduction for personal expenses	50%
Multiplier	12
Loss of dependency	Rs.2,88,000/-
Loss of consortium to the widow	Rs.5,000/-
Funeral expenses	Rs.2000/-

The plea of the claimant is that the deceased was an agriculturist by profession having 5/6 killas of land. He was running a commission agency as well as doing dairy farming thereby earning Rs.50,000/- per month. The claimant produced on record jamabandi for the year 2004-05 Ex.P4 that records Gurcharan Singh to be one of the co-owners and as per mutation No.2574 with regard to inheritance of Gurcharan Singh in favour of his widow Smt. Gurmeet Kaur, land measuring 38 kanal 8 marlas was mutated in her name, sufficient to prove that Gurcharan Singh was co-owner of land to the extent of approximately 5 acres. As has been rightly held by the Tribunal, land left behind by the deceased would be available to his family and the same has been inherited by his widow. There is no evidence on record that the deceased was running a dairy business. However, the claimant has filed an application to produce on record document Annexure A-1 i.e. licence issued by the Punjab Mandi Board, Chandigarh to Gurbachan Singh and sons and in para 2 there is reference to Gurcharan Singh son of Sh Kashmir Singh. However, there is no evidence led by the claimant that on the basis of this licence the deceased ever carried business of commission agency nor any documentary evidence with regard to that business has been produced on record. Taking into consideration the minimum wage available at the relevant time coupled with that deceased was owner of the land to the extent of approximately 5 acres, income of the deceased is assessed at Rs.4500/- per month. The deceased was more than 40 years of age. Claimant shall be entitle to addition in income for future prospects at the rate of 25%. The Tribunal has applied deduction of 50% for personal expenses as claim has been preferred by Smt. Gurmeet Kaur, widow of the deceased. In view of judgment of this Court **Pawan Kumar and others Vs. Ramesh Kumar and others, 2016(1) Law Herald 758**, admissible deduction for personal expenses would be 1/3rd. As deceased was in the age bracket of 40-45 years, appropriate multiplier is 14. In this manner, loss of dependency comes to Rs.6,30,000/- [Rs. 7,56,000/- (Rs.4500 x 12 x 14) + Rs.1,89,000/- (25% addition towards future prospects) – Rs.3,15,000/- (1/3rd deduction towards personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that appellant shall be entitle to Rs.70,000/- detailed hereunder:-

Loss of consortium	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-

In view of the above, total compensation comes to Rs.7,00,000/- and the additional amount is Rs.4,05,000/- (Rs.7,00,000/- - Rs.2,95,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

MAY 23, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**
Whether speaking/reasoned : yes/no
Whether reportable : yes/no