**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision: 16.01.2019

1. **FAO No.1461 of 2016(O&M)**

United India Insurance Co. Ltd. …..Appellant

VERSUS

Monika and others .....Respondents

Present: Mr. R.K. Bashamboo, Advocate for the appellant.

Mr. Deepender Ahlawat, Advocate for respondent No.1

Mr. Rishab Lohan, Advocate for respondents No.2 and 3.

Mr. Ajit Sihag, Advocate for
Mr. Deepak Jindal, Advocate for respondent No.7.

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2. **FAO No.1985 of 2016(O&M)**

Darshna and another …..Appellants

VERSUS

Ashok and others .....Respondents

Present: Mr. Rishab Lohan, Advocate for the appellants.

Mr. R.K. Bashamboo, Advocate for respondent No.3.

Mr. Ajit Sihag, Advocate for

Mr. Deepak Jindal, Advocate for respondent No.5.

Mr. Deepender Ahlawat, Advocate for respondent No.6.

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.1461 and 1985 of 2016 as these have emerged out of the same award dated 10.12.2015 passed by the

Motor Accidents Claims Tribunal, Sonepat (in short 'the Tribunal') whereby compensation has been assessed on account of death of Devanand son of Jag Rattan in a motor vehicular accident that took place on 09.08.2014.

FAO No.1461 of 2016 has been filed by the United India Insurance Company Ltd whereas the other appeal has been preferred by the claimants seeking enhancement of compensation. The parties shall be referred to as the 'Insurance Company' and the 'claimants' for facility of reference.

FAO Nos.1461 and 1985 of 2016

Counsel for the insurance company would inform that the appeal has been preferred to assail quantum of compensation as well as on the question of driving licence possessed by Ashok, driver of the offending vehicle.

The Tribunal has awarded compensation of Rs.30,67,056/- detailed hereunder:-

Monthly income of the deceased	Rs.13,491/-
Deduction for personal expenses	1/3rd
Addition in income for future prospects	50%
Multiplier	18
Loss of dependency	Rs.29,14,056/-
Loss of consortium to the widow	Rs.1,00,000/-
Funeral expenses	Rs.25,000/-
Pain, loss and suffering	Rs.25,000/-
Transportation expenses	Rs.3,000/-

Counsel for the insurance company in order to assail quantum of compensation assessed by the Tribunal would urge that as the deceased was an employee of Haryana Government and his family has been extended benefit of financial assistance under the Haryana Compassionate Assistance to the Dependants of Deceased Government Employees Rules, 2006 (in short 'the Rules of 2006'), the entire amount paid to family of the deceased under the said Rules is liable to be deducted in the light of judgment of Hon'ble the Supreme Court **Reliance General Insurance Co. Ltd. Vs. Shashi Sharma and others, 2016(4) RCR (Civil) 569**. He would further apprise the Court that as job of the deceased was not pensionable, the entire benefit under the Rules of 2006 is to be deducted.

With regard to driving licence, counsel would argue that Ashok was holding a driving licence authorizing him to drive the light motor vehicle, therefore, he was not competent to drive auto rickshaw bearing No.HR46-C-6499.

Counsel for the claimants, on the contrary, would argue that gross salary of the deceased was Rs.15,944/- and the Tribunal has wrongly taken into consideration the net income to the tune of Rs.13,491/- per month. He would further argue that claimants may be allowed adequate compensation under conventional heads in the light of judgment of Hon'ble the Supreme Court **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333.**

There is no representation on behalf of respondents No.4 and 5 earlier being represented by a counsel.

The deceased was working as Canal Guard and an employee of Haryana Government. The claimants examined Rakesh, Accounts Clerk, Water Services Division, Sonepat PW-5 to prove salary of the deceased. He would depose that in the month of July 2014 the deceased was drawing salary of Rs.15,944/-. The entire salary of the deceased is to be taken into consideration for computing loss of dependency in the light of judgments of Hon'ble the Supreme Court **Manasvi Jain versus Delhi Transport Corporation, (2014) 13 SCC 22** and **National Insurance Company Limited vs. Indira Srivastava and others 2008(1)RCR (Civil) 359.** The Tribunal has rightly allowed addition in income for future prospects, deduction for personal expenses and appropriate multiplier. Accordingly, loss of dependency is calculated at Rs.34,43,904/- [Rs.34,43,904/- (Rs.15,944 x 12 x 18) + Rs.17,21,952/- (50% towards future prospects) - Rs.17,21,952/- (1/3rd towards personal expenses)].

Under conventional heads, claimants shall be entitle to an amount of Rs.70,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270** and **Sebastiani Lakra and others Vs. National Insurance Co. Ltd. and another, AIR 2018 SC 5034.**

In view of the above, total compensation is Rs.35,83,904/-.

This brings the Court to contention of the insurance company with regard to deduction of amount payable to family of the deceased under the Rules of 2006. The deceased was 22 years old at the time of occurrence. As per statement of Rakesh PW-5, Monika widow of the deceased was drawing salary at the rate of Rs.16,560/- in the month of August 2015. In view of Rule 5 of Rules of 2006, widow of the deceased shall be entitle to salary for a period of 15 years as the deceased had not attained the age of 35 years. Since job of the deceased was not pensionable, the entire amount paid under the Rules of 2006 is to be deducted from compensation assessed by this Court. The amount of financial assistance is calculated at Rs.29,80,800/- (Rs.16,560/- x 12 x 15).

In view of the above, total compensation payable to the claimants, after deducting Rs.29,80,800/- comes to Rs.6,03,104/- and the amount awarded by the Tribunal is reduced to the extent of Rs.24,63,952/- (Rs.30,67,056/- - Rs.6,03,104/-). The excess amount, if already paid, to the claimants shall be recovered by insurance company by filing an appropriate application before the Tribunal.

So far as contention of the insurance company with regard to competency of Ashok to drive the vehicle in question on the basis of driving licence possessed by him, this contention is misconceived when examined in the light of judgment of Hon'ble the Supreme Court **Mukund Dewangan vs. Oriental Insurance Company Limited, 2017(7) Scale 731,** as the vehicle in question falls under the definition of light motor vehicle under Section 2(21) of the Motor Vehicles Act, 1988.

Both the appeals stand disposed of accordingly.

JANUARY 16, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no