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

Date of decision: 13.11.2019

1. **FAO No. 1576 of 2016(O&M)**

Oriental Insurance Co. ltd. …..Appellant

VERSUS

Charanjit Kaur and others .....Respondents

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2. **FAO No. 1577 of 2016(O&M)**

Oriental Insurance Co. ltd. …..Appellant

VERSUS

Gian Kaur and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.C. Gupta, Advocate for the appellant.

Mr. Kapil Khanna, Advocate for respondent No.1.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.1576 and 1577 of 2016 as these have emerged out of the same accident dated 28.04.2012 whereby compensation has been assessed on account of injuries sustained by Pushwinder Singh and Sukhjiwan Singh that proved fatal.

Both the appeals have been filed by Oriental Insurance Co. Ltd. (hereinafter referred to be as 'the insurance company').

Counsel for the insurance company would inform that primary issue involved in the appeals is with regard to quantum of compensation assessed by the Tribunal.

FAO No.1576 of 2016

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The Motor Accidents Claims Tribunal, Ludhiana (in short 'the Tribunal') awarded Rs.18,45,000/- detailed hereunder:-

Monthly income of the deceased	Rs.15,000/-
Deduction for personal expenses	50%
Multiplier	18
Loss of dependency	Rs.16,20,000/-
Funeral expenses	Rs.25,000/-
Loss of love and affection	Rs.1,00,000/-
Loss of estate	Rs.1,00,000/-

Counsel for the appellant would argue that deceased was a student of B.A. 2nd year in A.S. College, Khanna and as such income of the deceased assessed by the Tribunal is on higher side and merits reduction. Compensation under conventional heads may be modified 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.**

Counsel representing the claimant, on the contrary, has supported assessment of income of the deceased. He prays for extending benefit of addition in income for future prospects.

Taking a clue from notification issued by the State of Punjab fixing minimum wage coupled with educational qualification of the deceased, income of the deceased is assessed at Rs.6,000/- per month. Claimant shall be entitle to addition in income for future prospects at the rate of 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. Accordingly, loss of dependency is calculated at Rs.9,07,200/- [Rs.12,96,000/- (Rs.6000 x 12 x 18) +

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Rs.5,18,400/- (40% addition towards future prospects) – Rs. 9,07,200/- (50% deduction towards personal expenses)].

Under conventional heads, compensation assessed is modified to the effect that claimant shall be entitle to Rs.30,000/- i.e. Rs.15,000/- for expenses on funeral and Rs.15,000/- for loss to estate.

In view of the above, total compensation comes to Rs.9,37,200/- and compensation awarded by the Tribunal is reduced to the extent of Rs.9,07,800/- (Rs.18,45,000/- - Rs.9,37,200/-). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

FAO No.1577 of 2016

The Tribunal awarded Rs.14,49,000/- detailed hereunder:-

Monthly income of the deceased	Rs.12,000/-
Deduction for personal expenses	50%
Multiplier	17
Loss of dependency	Rs.12,24,000/-
Funeral expenses	Rs.25,000/-
Loss of love and affection	Rs.1,00,000/-
Loss of estate	Rs.1,00,000/-

Counsel for the insurance company would argue that income of the deceased assessed by the Tribunal is grossly higher and compensation assessed under conventional heads also needs reduction.

Counsel representing the claimant, on the contrary, has supported assessment of income of the deceased.

The plea of claimant is that he was driver by profession. The claimant examined Paramjit Kaur PW-2 to prove avocation and income of the deceased. However, she did not produce any documentary evidence

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with regard to employment of the deceased. Even driving licence, if any, possessed by the deceased has not been produced on record.

Taking a clue from notification issued by the State of Punjab fixing minimum wage coupled with educational qualification of the deceased, income of the deceased is assessed at Rs.6,000/- per month. Claimant shall be entitle to addition in income for future prospects at the rate of 40%. As the deceased was less than 25 years of age, admissible multiplier is 18. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. Accordingly, loss of dependency is calculated at Rs.9,07,200/- [Rs.12,96,000/- (Rs.6000 x 12 x 18) + Rs.5,18,400/- (40% addition towards future prospects) – Rs. 9,07,200/- (50% deduction towards personal expenses)].

Under conventional heads, compensation assessed is modified to the effect that claimant shall be entitle to Rs.30,000/- i.e. Rs.15,000/- for expenses on funeral and Rs.15,000/- for loss to estate.

In view of the above, total compensation comes to Rs.9,37,200/- and compensation awarded by the Tribunal is reduced to the extent of Rs.5,11,800/- (Rs.14,49,000/- - Rs.9,37,200/-). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeals are partly allowed in the aforesaid terms.

NOVEMBER 13, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**
Whether speaking/reasoned : yes/no
Whether reportable : yes/no

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