IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4417 of 2016(O&M)

Date of decision: 5.2.2019

Kela Devi and others …..Appellants

VERSUS

Naresh Kumar and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Amit Arora, Advocate for the appellants.

Mr. M.B. Jain, Advocate for the insurance company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Bhiwani (in short 'the Tribunal') whereby compensation has been awarded on account of death of Rakesh Kumar son of Ram Kumar in a motor vehicular accident that took place on 07.11.2014.

The Tribunal has awarded compensation of Rs.13,21,000/- detailed hereunder:-

Monthly income of the deceased	Rs.8,000/-
Addition in income for future prospects	50%
Deduction for personal expenses	50%
Multiplier	18
Loss of dependency	Rs.12,96,000/-
Funeral expenses	Rs.25,000/-

The plea of the claimants is that deceased was a Barber earning Rs.20,000/- per month. The Tribunal has noticed that no authentic proof regarding income of the deceased has been brought on record.

However, the trial Court has not rejected plea of the claimants that the deceased was working as barber.

Counsel for the insurance company would argue that compensation allowed by the Tribunal is much more than what can be permitted in the light of judgments on the issue. It is further argued that minimum wage of an unskilled labour at the relevant time was approximately Rs.6000/- per month but the Tribunal has assessed income at Rs.8000/- per month.

As per the notification issued by the State of Haryana fixing minimum wage w.e.f. 01.07.2014, minimum wage for a highly skilled labour is Rs.6289.50p per month. Taking into consideration notification issued by State of Haryana coupled with failure of the claimants to adduce cogent and convincing evidence in respect of income of deceased, I do not find any reason to differ with income of the deceased assessed by the Tribunal at the rate of Rs.8000/- per month. The Tribunal has allowed addition in income for future prospects at the rate of 50% but the same at best can be 40% when examined in the light of judgment of Constitution Bench of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270**. The Tribunal has rightly applied deduction of 50% for personal and living expenses of deceased as claim has been preferred by parents and minor brother of the deceased. In the given scenario, it can be safely held that compensation allowed by the Tribunal is more than what can be permitted in the given circumstances. That being so, there is no justification for awarding compensation more than what has been assessed by the Tribunal.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed leaving the parties to bear their own costs.

FEBRUARY 5, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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