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

**FAO No. 4876 of 2016(O&M)**

**Date of decision: 5.2.2019**

Suniti Devi …..Appellant

VERSUS

Vijay Kumar and others .....Respondents

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**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Rajan Bhargava, Advocate for
Mr. Vishal Aggarwal, Advocate for the appellant.

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**REKHA MITTAL, J. (Oral)**

Mr. Pardeep Goyal, Advocate has caused appearance on behalf of respondent No.3.

The claimant is in appeal seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Pathankot (in short 'the Tribunal') on account of death of Dinesh Kumar in a motor vehicular accident that took place on 01.06.2015.

The Tribunal has awarded compensation of Rs.15,42,500/- detailed hereunder:-

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|---|---|
| Monthly income of the deceased | Rs.17477/- (rounded off to Rs.17,500/-) |
| Deduction for personal expenses | 50% |
| Another deduction | 25% |
| Multiplier | 18 |
| Loss of dependency | Rs.14,17,500/- |
| Loss of love and affection | Rs.1,00,000/- |

Cremation expenses Rs.25,000/-

The plea of the claimant is that Dinesh Kumar was a Government employee being the Chowkidar in Government Senior Secondary School Badhani. The claimant examined Ramesh Chand, Bio Lecturer, Government Senior Secondary School, Badhani and he proved salary certificate Ex.P1 and salary register Ex.P2 whereby it has been established that Dinesh Kumar was working in Government school at salary of Rs.17477/- per month. The entire salary of the deceased shall be taken into consideration for assessing loss of dependency. The claimant shall be entitle to addition in income for future prospects at the rate of 50%. Deduction for personal expenses at the rate of 50% and multiplier adopted by the Tribunal are correct and affirmed. However, deduction of another 25% made by the Tribunal cannot stand the test of judicial scrutiny and accordingly set aside. In this manner, loss of dependency comes to Rs.28,35,000/- [Rs.37,80,000/- (Rs.17,500 x 12 x 18) + Rs.18,90,000/- (50% addition towards future prospects) – Rs.28,35,000/- (50% deduction towards personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that appellant shall be entitled to Rs.30,000/- i.e. Rs.15000/- for funeral expenses and Rs.15000/- for loss to estate 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 comes to Rs.28,65,000/- and the additional amount is Rs.13,22,500/- (Rs.28,65,000/-

- Rs.15,42,500/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization to be invested in a fixed deposit by the Tribunal for a period of two years.

The appeal is partly allowed with modification in the aforesaid terms.

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

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