IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

242 **Date of decision: 17.01.2019**

FAO No.7020 of 2016 (O&M)

Makhan Singh @ Iqbal Singh and another ... Appellants

Versus

Libra Bus Service Pvt. Ltd. and another ... Respondents

FAO No.7023 of 2016 (O&M)

Buta Singh @ Rachhpal Singh and another ... Appellants

Versus

Libra Bus Service Pvt. Ltd. and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Pankaj Katia, Advocate for the appellants.
Mr. Vinod Kumar, Advocate for respondent No.1.
Mr. Amit K. Goyal, Advocate for respondent No.2.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.7020 and 7023 of 2016 as these have emerged out of the same accident that took place on 13.10.2010.

FAO No.7020 of 2016 has been filed in regard to death of Gurlal Singh whereas the other appeal has been preferred qua death of Amandeep Singh.

FAO No.7020 of 2016

CM No.24223-CII of 2016

Prayer in this application is for condonation of delay of 494 days in filing the appeal.

In view of averments made in the application supported by an affidavit coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 494 days in filing the appeal is condoned subject to the condition that the claimants shall forgo interest for the period of delay, in case compensation is enhanced.

Main Case

The Tribunal, in an application filed under Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act') has allowed compensation to the tune of Rs.4,26,900/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.3300/-
2. Multiplier	16

3. Deduction for personal expenses	1/3rd
4. Loss of dependency	Rs.4,22,400/-
5. Expenses on funeral	Rs.2000/-
6. Loss of estate	Rs.2500/-

Counsel for the appellants would argue that claimants are entitle to compensation by extending benefit of addition in income for future prospects and adequate compensation under conventional heads as is available in a claim preferred under Section 166 of the Act. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**.

Another submission made by counsel is that in case this plea of the claimants is not accepted, compensation allowed under Section 163-A of the Act may be enhanced by applying multiplier of 17 as the deceased was 22 years old.

Counsel representing the respondents have refuted contention of the claimants that they can be allowed benefit of addition in income for future prospects in a claim preferred under Section 163-A of the Act. It is further argued that as per structured formula provided in the Second Schedule appended to Section 163-A of the Act, multiplier applied by the Tribunal and compensation under conventional heads are correct.

Contention raised by counsel for the claimants to allow addition in income for future prospects or compensation under conventional heads by relying upon judgment of Hon'ble the Supreme Court **Pranay Sethi and others's case (supra)** is highly misconceived and liable to be rejected. Indisputably, the claim was preferred by invoking Section 163-A of the Act wherein compensation is to be assessed in view of the formula laid down in Second Schedule appended to Section 163-A of the Act. The deceased was 22 years old and admissible multiplier for age above 20 years but not exceeding 25 years is 17. Accordingly, loss of dependency is calculated at Rs.4,48,800/- [(3300 x 12 x 17) – (1/3rd deduction for personal expenses)]. However, compensation allowed by the Tribunal under conventional heads is affirmed. The additional amount of Rs.26,400/- (4,53,300 - 4,26,900) shall be payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 494 days in filing the appeal.

The appeal is partly allowed in the aforesaid terms.

FAO No.7023 of 2016

In view of findings recorded in FAO No.7020 of 2016, additional amount of Rs.26,400/- (4,53,300 - 4,26,900) shall be payable with interest @ 7.5% per annum from the date of petition till realization, except for the period of delay of 494 days in filing the appeal.

The appeal is partly allowed in the aforesaid terms.

17.01.2019 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No