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

236 **Date of decision: 20.05.2019**

**FAO-843-2016 (O&M)**

SANTOSH KAUR AND ORS ... Appellants

Versus

HARDEEP SINGH AND ORS ... Respondents

**FAO-1479-2016 (O&M)**

MEENAKSHI AND ORS ... Appellants

Versus

HARDEEP SINGH AND ORS ... Respondents

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

Present : Mr. Amit Gupta, Advocate
for the appellants.
Mr. Vinod Gupta, Advocate
for the insurance company.
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**REKHA MITTAL, J. (Oral)**

This order will dispose of FAO Nos.843 and 1479 of 2016 as these have emerged out of the same accident in which Harjeet Singh and Bikram Masih sustained injuries that proved fatal.

FAO No.843 of 2016 has been filed by Santosh Kaur and others claiming enhancement of compensation on account of death of Harjeet Singh whereas the other appeal has been preferred by the claimants with regard to death of Bikram Masih for the same relief.

**FAO No.843 of 2016**

The Tribunal awarded Rs.9,86,000/-, detailed hereunder:-

| | |
|---|---|
| 1. Monthly income of the deceased | Rs.5000/- |
| 2. Addition in income for future prospects | 30% |
| 3. Multiplier | 16 |
| 4. Deduction for personal expenses | 1/4th |
| 5. Loss of dependency | Rs.9,36,000/- |
| 6. Funeral expenses, loss of love and affection loss of consortium | Rs.50,000/- |

Counsel for the appellants would argue that income of the deceased assessed by the Tribunal is far below than the minimum wage available at the relevant time. Addition in income for future prospects should be 40%. Adequate compensation may be allowed under conventional heads.

Counsel representing the insurance company, on the contrary, would argue that claim has been preferred by the widow, minor son and father of the deceased and as such, deduction for personal expenses should be 1/3rd.

The Tribunal has not assigned any reason for assessing income of the deceased at Rs.5000/- per month. Taking a clue from notification issued by the State of Punjab fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.6700/- per month. Appellants shall be entitle to addition in income for future prospects @ 40% in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**. As has been rightly argued by counsel for the insurance company, admissible deduction for personal and living expenses would be 1/3rd. Multiplier applied by the Tribunal is correct and affirmed. In this manner, loss of dependency is calculated at Rs.12,00,640/- [(6700 x 12 x 16) + (40% future prospects) – (1/3rd deduction for personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70,000/-, detailed hereunder:-

| | |
|---|---|
| 1. Loss of consortium | Rs.40,000/- |
| 2. Loss of estate | Rs.15,000/- |
| 3. Funeral expenses | Rs.15,000/- |

Total compensation is Rs.12,70,640/- and the additional amount is Rs.2,84,640/- (12,70,640 - 9,86,000). The compensation assessed by the Tribunal and the additional amount allowed by this Court shall carry interest @ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

**FAO No.1479 of 2016**

In view of findings recorded in FAO No.843 of 2016 except that deduction for personal expenses allowed by the Tribunal is correct and affirmed, additional amount payable to the claimants is calculated at Rs.4,34,720/- (14,20,720 – 9,86,000). The compensation assessed by the Tribunal and the additional amount allowed by this Court shall carry interest

@ 7.5% per annum from the date of petition till realization.

The appeal is partly allowed in the aforesaid terms.

20.05.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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