IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

243 **Date of decision: 03.10.2019**

XOBJC-33-CII of 2018 (O&M) in/and
FAO No.3034 of 2017 (O&M)

Neelam Rani and another ... Appellants

Versus

Kuldeep Singh and others ... Respondents

FAO No.5202 of 2017 (O&M)

Neeru Mittal and others ... Appellants

Versus

Kuldeep Kumar and others ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashok Sharma Bhana, Advocate
for the claimants in FAO No.3034 of 2017.

Mr. Ashe Kumar Goyal, Advocate
for the claimants in FAO No.5202 of 2017.

Mr. Manav Satija, Advocate for
Mr. Ashwani Talwar, Advocate
for United Insurance Co. Ltd.
thr Branch Manager, Sangrur/cross objector.
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REKHA MITTAL, J. (Oral)

This order will dispose of FAO No.3034 of 2017 and cross objections No.33-CII of 2018 in FAO No.3034 of 2017 and FAO No.5202 of 2017 as these have emerged out of the same accident wherein Lucky Goyal and Amit Kumar both sustained injuries that proved fatal.

FAO No.3034 of 2017 has been filed by claimants Neelam Rani and another seeking enhancement of compensation in regard to death of Lucky Goyal, cross objections filed by the insurance company to assail quantum of compensation whereas other appeal has been filed by claimants Neeru Mittal and others with regard to death of Amit Kumar.

XOBJC-33-CII of 2018 in/and FAO No.3034 of 2017

The Tribunal awarded Rs.10,97,000/-, detailed hereunder:-

Monthly income of the deceased Rs.6000/-

Addition in income for future prospects	50%
Multiplier	18
Deduction for personal expenses	50%
Loss of dependency	Rs.9,72,000/-
Expenses on funeral	Rs.25,000/-
Loss of love and affection	Rs.1,00,000/-

Counsel for the appellants would argue that income of the deceased assessed by the Tribunal is on lower side and needs enhancement.

Counsel for the insurance company/cross objector, on the other hand, would contend that addition in income for future prospects and compensation allowed under conventional heads may be modified in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**.

The plea of claimants is that deceased was doing private job and running a coaching center thereby earning Rs.19,000/- per month. It was also averred that deceased was doing course at Vidya Rattan Polytechnic College. Counsel for the appellants has fairly conceded that no documents were produced on record with regard to educational qualification of the deceased much less his avocation and income. Taking a clue from notification issued by the State of Punjab fixing minimum wage, income of the deceased is assessed at Rs.7000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.10,58,400/- [(7000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation awarded by the Tribunal is modified to the effect that claimants shall be entitle to Rs.30,000/-, detailed hereunder:-

1. Expenses on last rites	Rs.15,000/-
2. Loss of estate	Rs.15,000/-

Total compensation is Rs.10,88,400/- and compensation assessed by the Tribunal is slightly more than Rs.10,88,400/-. That being so, the award is kept intact.

The appeal and cross objections are disposed of in the aforesaid terms.

FAO No.5202 of 2017

The Tribunal awarded Rs.17,45,000, detailed hereunder:-

Monthly income of the deceased	Rs.8000/-
Addition in income for future prospects	50%
Multiplier	15
Deduction for personal expenses	1/4th
Loss of dependency	Rs.16,20,000/-
Expenses on funeral	Rs.25,000/-
Loss of consortium	Rs.1,00,000/-

Counsel for the appellants would argue that income of the deceased assessed by the Tribunal is on lower side and needs enhancement on the basis of income tax returns Exs.C5 to C8 proved by Mithun Kumar, Tax Assistant CW6.

Counsel for the insurance company, on the contrary, would argue that addition in income for future prospects and compensation under conventional heads may be modified in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**.

Perusal of last income tax return filed by the deceased reveals that gross total income from business/profession was Rs.1,95,800/-. Previous thereto gross total income was Rs.1,75,700/-. Taking into consideration the gross total income of deceased, annual income of the deceased is assessed at Rs.1,95,800/-. The deceased was born on 16.10.1978 and as such, he was less than 40 years of age at the time of death. Claimants shall be entitle to addition in income for future prospects @ 40%.

The application for compensation has been filed by the widow, two minor children and mother of the deceased. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.30,83,850/- [(1,95,800 x 15) + (40% future prospects) – (1/4th 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.31,53,850/- and additional amount is Rs.14,08,850/- (31,53,850 - 17,45,000), payable with interest @ 7.5% per annum from the date of petition till realization, to be paid to minor claimants in equal ratio, to be invested in fixed deposit till they attain majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

03.10.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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