IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 324 of 2017(O&M) & XOBJC-144-CII of 2017

Date of decision: 27.8.2019

National Insurance Co. Ltd. …..Appellant

VERSUS

Mukesh and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ram Avtar, Advocate for the appellant.

None for the claimants/ cross objectors.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO No.324 of 2017 and cross objections No.144-CII of 2017 as these have emerged out of the award dated 07.10.2016 passed by the Motor Accidents Claims Tribunal, S.A.S. Nagar (Mohali) (in short 'the Tribunal') whereby compensation has been assessed on account of death of Ajmair Singh in a motor vehicular accident that took place on 05.12.2015.

FAO No.324 of 2017 has been filed by the National Insurance Co. Ltd. (hereinafter referred to as 'insurance company') whereas cross objections No.144-CII of 2017 have been filed by the claimants seeking enhancement of compensation.

Counsel for the insurance company would inform that appeal has been filed to assail only quantum of compensation.

The Tribunal awarded Rs.13,40,000/- detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Deduction for personal expenses	$1/4^{th}$
Addition in income for future prospects	50%
Multiplier	15
Loss of dependency	Rs.12,15,000/-
Loss of consortium	Rs.1,00,000/-
Funeral expenses	Rs.25,000/-

Counsel for the insurance company 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 Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270.**

There is no representation on behalf of the claimants/cross objectors earlier represented by a counsel.

The plea of claimants is that deceased was working with Balaji Transport, Panchkula thereby earning Rs.15,000/- per month. The Tribunal has noticed that there is one certificate Ex.PW1/C on record under the signatures of Somvir in respect of salary of Rs.9500/- per month but Somvir PW-2 has not stated anything in respect of the certificate. However, the Tribunal assessed income of the deceased while treating him as casual labourer but without examining notification issued by the State of Punjab fixing minimum wage. Taking a clue from notification issued by the State of Punjab, income of the deceased is assessed at Rs.7200/- per month. Addition in income for future prospects would be 40%. Deduction for personal expenses and multiplier applied by the Tribunal are correct and affirmed. In this manner, loss of dependency comes to Rs.13,60,800/- [Rs.12,96,000/- (Rs.7200/- x 12 x 15) + Rs.5,18,400/- (40% towards future prospects) – Rs.4,53,600/- (1/4th deduction towards personal expenses)].

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitle to Rs.70000/-, detailed hereunder:-

Loss of consortium	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss to estate	Rs.15,000/-

In view of the above, total compensation is Rs.14,30,800/- and the additional amount is Rs.90,800/- (Rs. 14,30,800/- - Rs.13,40,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization to Sahil, minor son of the deceased, to be invested in fixed deposit till he attains majority or for a period of three years, whichever is later.

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

AUGUST 27, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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