IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3309 of 2017(O&M)

Date of decision: 11.3.2019

Shanti and others …..Appellants

VERSUS

Mehtab Ansari and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Naresh Kaushik, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Panchkula (in short 'the Tribunal') whereby compensation was assessed on account of death of Rakesh in a motor vehicular accident that took place in July 2015.

The Tribunal has awarded Rs.14,72,840/- detailed hereunder:-

Monthly income of the deceased	Rs.5850/-
Addition in income for future prospects	50%
Deduction for personal expenses	$1/5^{th}$
Multiplier	16
Loss of dependency	Rs.13,47,840/-
Loss of love and affection, consortium, funeral and last rites expenses	Rs.1,25,000/-

The sole submission made by counsel for the appellants is that income of the deceased assessed by the Tribunal is on lower side and merits enhancement. The Tribunal in para 11 of the award has discussed in detail evidence of Ramesh Kumar, Manager, Garg Electronics PW-3 examined to prove employment and income of the deceased but refused to rely upon his testimony for the reasons assigned therein and eventually assessed his income at Rs.5850/- per month by taking a clue from the notification issued by the State of Haryana fixing minimum wage at the relevant time. Counsel for the appellants has failed to advance any meaningful arguments to assail the factual findings recorded by the Tribunal in order to discard the oral and documentary evidence in the light of testimony of Ramesh Kumar PW-3. On due consideration of the observations made by the Tribunal in this regard, I do not find an error much less infirmity in the same warranting intervention. As such, findings of the Tribunal assessing income of the deceased are liable to be affirmed and ordered accordingly.

The Tribunal has allowed addition in income for future prospects at the rate of 50% as against 40% admissible in the light of judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270**. Even deduction for personal expenses would be $1/4^{th}$ as against $1/5^{th}$ allowed by the Tribunal as claim has been preferred by six persons. The Tribunal has allowed compensation of Rs.1,25,000/- under conventional heads as against Rs.70,000/- available in the light of judgment in **Pranay Sethi and others' case** (supra).

In view of the above, compensation allowed by the Tribunal is more than what can be awarded in the given circumstances, therefore, there is no justification for allowing compensation more than what has been assessed by the Tribunal.

In view of what has been discussed hereinbefore, finding no merit, the appeal fails and is accordingly dismissed in limine.

MARCH 11, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

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