IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3858 of 2017(O&M)

Date of decision: 25.3.2019

Prem Bajaj and others …..Appellants

VERSUS

Sumer Singh and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Subhash Godara, Advocate for the appellants.

Mr. Varun Sharma, Advocate for
Mr. Satpal Dhamija, Advocate for insurance company.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Ramesh Bajaj in a motor vehicular accident that took place on 22.05.2016.

The Motor Accidents Claims Tribunal, Rohtak (in short 'the Tribunal') has awarded Rs.3,05,000/- detailed hereunder:-

Monthly income of the deceased	Rs.6000/-
Deduction for personal expenses	50%
Multiplier	5
Loss of dependency	Rs.1,80,000/-
Loss of consortium	Rs.1,00,000/-
Expenses on funeral	Rs.25,000/-

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

It is further submitted that even if widow of the deceased is held to be the only dependent, deduction for personal expenses should be 1/3rd.

Counsel representing the insurance company, on the other hand, would argue that compensation allowed under conventional heads needs to be restricted to Rs.70,000/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270** and **Sebastiani Lakra and others Vs. National Insurance Co. Ltd. and another, AIR 2018 SC 5034.**

There is no dispute that the deceased was 68 years old at the time of occurrence. The plea of the claimants is that the deceased was in the business of cloth merchant at Jawala Hedi Market, New Delhi thereby earning Rs.60000/65000/- per month. The Tribunal, in para 21 of the award, has noticed that no document with regard to cloth business of the deceased has been placed on record. The plea of the claimants with regard to cloth business of deceased does not find corroboration from an independent source. In the given circumstances, income of the deceased can be assessed on the basis of minimum wage available at the relevant time when examined the light of age of deceased to be 68 years. Taking a clue from the notification issued by State of Haryana fixing minimum wage, income of the deceased is assessed at Rs.7,000/- per month. Contention raised by the claimant with regard to deduction to be 1/3rd is meritorious and gets support from the judgment of Madhya Pradesh High Court **Anurag Jain and others Vs. Ramveer Singh and others, 2007(4) TAC 279** and of Karnataka High Court **Ningappa Ramanna Kori and another Vs. Tamil Nadu State Transport (Madurai) Ltd., 2016 AAC 1629.** Reference can also be made to judgment of this Court **Pawan Kumar and others Vs. Ramesh Kumar and others, 2016(1) Law**

Herald 758. Accordingly, loss of dependency comes to Rs.2,80,000/- [Rs.4,20,000/- (Rs.7000 x 12 x 5) – Rs.1,40,000/- (1/3rd deduction towards 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:-

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

In view of the above, total compensation comes to Rs.3,50,000/- and additional amount is Rs.45,000/- (Rs.3,50,000/- – Rs.3,05,000/-) payable with interest at the rate of 7.5% per annum from the date of petition till realization to widow of the deceased, to be invested in fixed deposit for a period of two years.

The appeal is partly allowed in the aforesaid terms.

MARCH 25, 2019 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**
Whether speaking/reasoned : yes/no
Whether reportable : yes/no