IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

256 **Date of decision: 05.07.2019**

FAO No.4722 of 2017 (O&M)

New India Assurance Company Ltd. ... Appellant

Versus

Sonia Sharma and others ... Respondents

FAO No.6135 of 2017 (O&M)

Dharamveer Singh ... Appellant

Versus

Navendu Chetan and another ... Respondents

FAO No.6157 of 2017 (O&M)

Sonia Sharma and others ... Appellants

Versus

Navendu Chetan and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. JS Chatrath, Advocate for the insurance company.
Mr. Vinod K. Kanwal, Advocate for the claimants.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.4722, 6135 and 6157 of 2017 as these have emerged out of the same award dated 25.04.2017 passed by the Motor Accidents Claims Tribunal, Kurukshetra whereby compensation has been assessed on account of death of Yogesh Sharma and injuries sustained by Dharamveer Singh in a motor vehicular accident that took place on 15.07.2015.

FAO No.4722 of 2017 has been filed by the New India Assurance Co. Ltd. to assail the award passed in favour of Sonia Sharma and others in regard to death of Yogesh Sharma whereas FAO No.6157 of 2017 has been filed by claimants Sonia and others for enhancement of compensation. FAO No.6135 of 2017 has been filed by Dharamveer Singh for enhancement of compensation.

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

FAO Nos.4722 and 6157 of 2017

The Tribunal awarded Rs.25,65,900/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.10,200/-
2. Addition in income for future prospects	50%
3. Multiplier	17
4. Deduction for personal expenses	$1/4^{th}$
5. Loss of dependency	Rs.23,40,900/-
6. Expenses on funeral and transportation	Rs.25,000/-
7. Loss of consortium	Rs.1,00,000/-
8. Loss of care and guidance to claimants No.2 and 3	Rs.1,00,000/-

The plea of claimants is that deceased was working as Sales Manager with M/s Sri Sai Traders, Palika Bazar, Ladwa thereby earning Rs.20,000/- per month. The Tribunal has noticed that claimants failed to prove avocation and income of the deceased. Counsel for the claimants has failed to point out any materials on record to substantiate plea of the claimants in regard to employment and income of the deceased. The Tribunal has assessed income of the deceased at Rs.10,200/- per month on the basis of Deputy Commissioner's rates meant for payment to employees out of contingency fund. Taking a clue from notification issued by the State of Haryana fixing minimum wage, income of the deceased is assessed at Rs.6000/- 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.12,85,200/- [(6000 x 12 x 17) + (40% future prospects) – ($1/4^{th}$ 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/- in the light of judgments of Hon'ble the Supreme Court **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270** and **Sebastiani Lakra and others vs. National Insurance Company Limited and another AIR 2018 SC 5034**, 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.13,55,200/- and compensation allowed by the Tribunal is reduced to the extent of Rs.12,10,700/- (25,65,900 - 13,55,200). The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

The appeals are disposed of in the aforesaid terms.

FAO No.6135 of 2017

The Tribunal awarded Rs.1,94,379/-, detailed hereunder:-

1. Loss of income	Rs.5000/-
2. Transportation expenses	Rs.5000/-
3. Attendant charges	Rs.5000/-
4. Diet and nutrition	Rs.5000/-
5. Medical expenses	Rs.44,719/-
6. Pain and sufferings	Rs.7500/-
7. Loss of earning on account of disability	Rs.1,10,160/-
8. Hospitalisation charges	Rs.12,000/-

Counsel for the appellant would argue that compensation allowed by the Tribunal under various heads is grossly inadequate and merits enhancement.

The injured suffered disability to the extent of 10% and Tribunal assessed loss of future income by considering functional disability to the extent of 5% and applied multiplier method. The income of the victim has been taken as Rs.10,200/- per month on the basis of Deputy Commissioner's rates whereas the minimum wage at the relevant time was Rs.6000/- per month. If loss of future income is assessed on the basis of minimum wage at Rs.6000/- per month, there will be substantial deduction with regard to loss of future income on account of disability. In the given scenario, there is no justification for allowing additional compensation and as such, the appeal filed by the claimant deserves to be dismissed.

For the foregoing reasons, the appeal stands dismissed.

05.07.2019 **(REKHA MITTAL)**

ashok **JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No