IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

255 **Date of decision: 18.07.2019**

FAO No.34 of 2018 (O&M)

Iffco Tokio General Insurance Co. Ltd. ... Appellant

Versus

Bir Singh and others ... Respondents

FAO No.161 of 2018 (O&M)

Bir Singh and another ... Appellants

Versus

Jasbir Singh and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sanjeev Kodan, Advocate for the insurance company.
Mr. Rajiv K. Saini, Advocate for the claimants.

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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.34 and 161 of 2018 as these have emerged out of the same award dated 05.09.2017 passed by the Motor Accidents Claims Tribunal, Karnal whereby compensation has been assessed on account of death of Ravinder Kumar in a motor vehicular accident that took place on 10.10.2016.

FAO No.34 of 2018 has been filed by the Iffco Tokio General Insurance Co. Ltd. whereas the other appeal has been preferred by the claimants seeking enhancement of compensation.

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

The Tribunal awarded Rs.16,59,560/-, detailed hereunder:-

Monthly income of the deceased	Rs.10,520/-
Addition in income for future prospects	50%
Multiplier	17
Deduction for personal expenses	50%
Loss of dependency	Rs.16,09,560/-
Expenses on funeral	Rs.50,000/-
Loss of estate and loss of love and affection	

Counsel for the insurance company would argue that income of the deceased has been assessed on the basis of Deputy Commissioner's rates meant for payment to employees out of contingency fund whereas minimum wage of an unskilled labour at the relevant time was approximately Rs.8000/- per month. Compensation awarded by the Tribunal for future prospects and 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**.

Counsel for the claimants, on the contrary, has supported assessment made by the Tribunal.

The plea of claimants is that the deceased was mason by profession thereby earning Rs.15,000/- per month. The Tribunal has noticed that claimants have failed to adduce authentic evidence to prove avocation and income of the deceased. As has been rightly argued by counsel for the insurance company, DC rates are meant for payment to employees out of contingency fund. Taking into consideration notification issued by State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.8000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40% in the light of judgment in **Pranay Sethi and others's case (supra)**. Multiplier and deduction for personal expenses applied by the Tribunal are correct and affirmed. In this manner, loss of dependency is calculated at Rs.11,42,400/- [(8000 x 12 x 17) + (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.11,72,400/- and compensation assessed by the Tribunal is reduced to the extent of Rs.4,87,160/- (16,59,560 - 11,72,400) . The insurance company shall be entitle to recover the excess amount, if already paid, by filing an appropriate application before the Tribunal.

For the foregoing reasons, the appeal filed by the insurance company is partly allowed in the aforesaid terms. As a natural corollary, the appeal preferred by the claimants is dismissed, leaving the parties to bear their own costs.

18.07.2019 **(REKHA MITTAL)**
ashok **JUDGE**

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