**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

234 FAO-1969-2015(O&M)

Date of decision: 04.03.2020

MEENA AND ANR ... Appellants

Versus

MUNISH @ MONU AND ORS ... Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Ashwani Gaur, Advocate for the appellants.
Mr. Naveen Chopra, Advocate for respondent No.3.
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**REKHA MITTAL, J. (Oral)**

The claimants are in appeal seeking additional compensation on account of death of Sunny in a motor vehicular accident that took place on 20.12.2013.

The Tribunal awarded Rs.4,93,000/-, detailed hereunder:-

| | |
|---|---|
| Monthly income of the deceased | Rs.6000/- |
| Multiplier | 13 |
| Deduction for personal expenses | 50% |
| Loss of dependency | Rs.4,68,000/- |
| Expenses on funeral | Rs.25,000/- |

The liability to pay compensation has been fastened against driver and owner of offending vehicle and the insurance company has been exonerated of liability on the issue of driving licence.

Findings of the Tribunal exonerating the insurance company of liability to pay compensation to the claimants cannot be allowed to sustain and accordingly set aside. Further in view of findings of the Tribunal on the question of driving licence, the insurance company shall be entitle to recover compensation from the insured after discharging liability towards the claimants. Accordingly, findings of the Tribunal, recorded in paras 23 and 24, are modified.

The plea of claimants is that deceased was working in a private factory at Kundli, at monthly salary of Rs.12,000/-. They did not examine his employer nor a representative of the employer to prove his avocation and income. There is no evidence on record with regard to educational qualification of the deceased. Taking a clue from notification issued by the

State of Haryana fixing minimum wage at the relevant time, income of the deceased is assessed at Rs.5500/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. Deduction for personal expenses allowed by the Tribunal is correct and affirmed. As the deceased was 21 years old, admissible multiplier is 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**, **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315 and National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.** In this manner, loss of dependency is calculated at Rs.8,31,600/- [(5500 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, compensation allowed 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.8,61,600/- and additional amount is Rs.3,68,600/- (8,61,600 - 4,93,000), payable with interest @ 7.5% per annum from the date of petition till realization, to mother of the deceased, to be invested in fixed deposit for a period of two years. The insurance company shall be liable to pay compensation assessed by the Tribunal as well as additional compensation allowed by this Court, in view of aforesaid findings with a right of recovery against the insured after payment of compensation to the claimants.

The appeal is partly allowed in the aforesaid terms.

04.03.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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