IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

231 **Date of decision: 17.02.2020**

FAO No.3444 of 2016 (O&M)

Smt. Neelam and another ... Appellants

Versus

Sunil Kumar and ors. ... Respondents

FAO No.7030 of 2016 (O&M)

Anaro and others ... Appellants

Versus

Sunil Kumar and ors. ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Mohit Nehra, Advocate
for the appellants in FAO No.3444 of 2016.
Mr. Lalit Sharma, Advocate
for the appellants in FAO No.7030 of 2016.
Mr. Parmod Parmar, Advocate for respondents No.1 and 2.
Mr. Ram Avtar, Advocate for insurance company.
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REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.3444 and 7030 of 2016 as these have emerged out of the same award dated 30.04.2015 passed by the Motor Accidents Claims Tribunal, Bhiwani whereby compensation has been assessed on account of death of Sovit @ Shobhit and Ajay in a motor vehicular accident that took place on 21.08.2014.

CM No.12437-CII of 2016 in FAO No.3444 of 2016

Prayer in this application is for condonation of delay of 152 days in refiling the appeal.

In view of averments made in the application supported by an affidavit of counsel for the appellants coupled with that provisions of the Motor Vehicles Act, 1988 providing for compensation are benevolent social legislation, application is allowed and delay of 152 days in refiling the appeal is condoned subject to the condition that claimants shall forgo interest for the period of delay, in case compensation is enhanced.

FAO No.3444 of 2016

The Tribunal awarded consolidated sum of Rs.2,50,000/-.

As per case set up by the claimants, the deceased was 16 years old and a student of 10+1. Taking a clue from notification issued by the State of Haryana fixing minimum wage at the relevant time, notional income of the deceased is assessed at Rs.5700/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. The admissible deduction for personal expenses is 50% and multiplier is 18. In this manner, loss of dependency is calculated at Rs.8,61,840/- [(5700 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.8,91,840/- and additional amount is Rs.6,41,840/- (8,91,840 - 2,50,000), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 152 days in refiling the appeal, to mother of the deceased, to be invested in fixed deposit for a period of two years.

The appeal is partly allowed in the aforesaid terms.

FAO No.7030 of 2016

The Tribunal awarded Rs.4,89,500/-, detailed hereunder:-

Monthly income of the deceased	Rs.3000/-
Addition in income for future prospects	50%
Multiplier	15
Deduction for personal expenses	50%
Deduction qua income tax	10%
Loss of dependency	Rs.3,64,500/-
Expenses on funeral	Rs.25,000/-
Loss of love and affection	Rs.1,00,000/-

The deceased was born on 02.12.1994 and he was approximately 20 years old. As per case of the claimants, he was a student of 10+2. 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.6000/- 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. However, as the deceased was 20 years old, admissible multiplier is 18. In this manner, loss of dependency is calculated at Rs.9,07,200/- [(6000 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.9,37,200/- and additional amount is Rs.4,47,700/- (9,37,200 - 4,89,500), payable with interest @ 7.5% per annum from the date of petition till realization except for the period of delay of 288 days in filing the appeal, to mother of the deceased, to be invested in fixed deposit for a period of two years.

The appeal is partly allowed in the aforesaid terms.

17.02.2020 **(REKHA MITTAL)**
ashok **JUDGE**

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