IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RA-CR-142-2020,
CM-10165-CII-2020 & CM-2115-CII-2021 in
RA-CR-11-2021 in
FAO-7564-2017
Date of Decision:26.02.2021

MADHU CHOPRA AND ORS ...APPELLANTS

VERSUS

STATE OF HARYANA AND ORS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ashwani Arora, Advocate for the appellants.

Mr. Gurmeet Singh, AAG, Haryana
for respondents No.1 and 2.

Mr. Jagdeep Singh Rana, Advocate for respondent No.3.

Mr. Vinod Chaudhri, Advocate for respondent No.4.

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SUVIR SEHGAL, J.(ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

CM-10165-CII-2020 in RA-CR-142-2020 in FAO-7564-2017

Application is allowed. The applicant-appellants are permitted to place on record the downloaded copy of the judgment dated 12.11.2020.

CM-2115-CII-2021 in RA-CR-11-2021 in FAO-7564-2017

Application is allowed. Affidavits of applicant-appellants No.1, 2 and 4 are permitted to be placed on record.

<u>RA-CR-142-2020 and RA-CR-11-2021</u>

RA-CR-142-2020 has been filed by the claimants/appellants and RA-CR-11-2021 has been filed by the Insurance Company - respondent No.4.

Notices of both the review applications were issued to the non-applicants, however, no reply has been filed.

Counsel for the appellants has sought review of the judgment dated 12.11.2020 on two counts. Firstly, he submits that income tax has to be deducted from the gross annual income and thereafter addition of future prospects is to be made. He has placed reliance upon the Constitutional Bench judgment of the Hon'ble Supreme Court in **<u>National Insurance Company Limited versus Pranay Sethi and others</u>** **2017 ACJ 2700** and has drawn the attention of this Court to the conclusion in Para 61 (iii). Secondly, he submits that amount of Rs.1,25,000/- granted by the Motor Accident Claims Tribunal, Chandigarh, under conventional heads has not been included by this Court while calculating the enhanced amount of compensation.

Counsel representing Insurance Company - respondent No.4 in his review application, has sought clarification regarding apportionment of compensation amount amongst the claimants. Opposing the prayer made by counsel for the claimants-appellants, he submits that the claimants are entitled to Rs.30,000/- under conventional heads as held in Pranay Sethi's case (supra) and not Rs.1.25 lacs as awarded by the Tribunal.

I have heard the counsel for the parties.

There can be no possible dispute about the fact that the income tax has to be deducted from the gross annual income and addition for future prospects has to be made thereafter. The necessary correction in the calculation is accordingly ordered.

Insofar as the addition of the amount of Rs.1,25,000/- awarded by the Tribunal under conventional heads is concerned, the submission made by the counsel for the Insurance Company has been considered and deserves to be rejected for the reason that the Insurance Company did not challenge the award by either filing a cross appeal or preferring cross objections in the appeal filed by the claimant, nor has the said addition been questioned in the review application.

The claimants-appellants No.1, 2 and 4 have filed affidavits, which have been ordered to be taken on record today, whereby they have relinquished their share of enhanced amount of compensation in favour of claimant-appellant No.3, Mayank Chopra.

In view of the above, the chart whereby the total amount payable to the appellants has been calculated (which appears on page 5-6 of the order dated 12.11.2020) shall be substituted with the following table:-

Monthly income		Rs.97,590/-
Annual income		Rs.11,71,080/-
Add 15% for further prospects		Rs.1,75,662/-
Total		Rs.13,46,742/-
Income Tax and Education Cess on Rs.11,71,080/-		
Upto Rs.2,50,000/-	Nil	

Rs.2,50,000/- to Rs.5,00,000/- 10%	Rs.25,000/-	
Rs.5,00,000/- to Rs.10,00,000/- 20%	Rs.1,00,000/-	
Rs.10,00,000/- to Rs.11,71,080/- 30%	Rs.51,324/-	
Total Income Tax	Rs.1,76,324/-	
Education Cess @ 3%	Rs.5290/-	
	Rs.1,81,614/-	
Less: Income Tax and Education Cess		**Rs.1,81,614/-**
		Rs.11,65,128/-
Less: Deduction of 1/4th for personal expenses		**Rs.2,91,282/-**
		Rs.8,73,846/-
Multiplier of 9		**X9**
		Rs.78,64,614/-
Less: Awarded by Tribunal		**Rs.61,47,435/-**
Total		**Rs.17,17,179/-**
Add Medical bill (Ex.P-6)		**Rs.84,685/-**
Conventional Heads awarded by the Tribunal		**Rs.1,25,000/-**
Enhanced compensation		**Rs.19,26,864/-**

Accordingly, the enhanced amount of compensation which has been found due as per the above calculation alongwith interest @ 7.5% from the date of the application till its realization is ordered to be paid to claimant-appellant No.3 within a period of six weeks by way of ECS transfer to his Bank account. The period of six weeks shall start from the date the bank account particulars are furnished to the Insurance Company by appellant No.3.

Both the review applications are disposed of.

26.02.2021 **(SUVIR SEHGAL)**
sheetal **JUDGE**

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No