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

**FAO No.394 of 1996**

Date of decision: 11th February, 2015

Saraswati Devi and others

… Appellants

Versus

Delhi Transport Corporation and another

… Respondents

**CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Sagar Aggarwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

None for the respondents.

**FATEH DEEP SINGH, J.**

The claimants have impugned a consolidated Award dated 04.05.1995 passed by the learned Motor Accident Claims Tribunal, Karnal pertaining to the death of Suresh Kumar. The appellants are the widow, son and father of the deceased and have impugned the quantum of compensation awarded to the tune of ₹1,24,800.

Heard Mr. Sagar Aggarwal, Advocate appearing on behalf of Mr.Ashit Malik, Advocate for the appellants.

Findings of the learned Tribunal on issue No.1 as to the mode of the accident which have been decided in favour of the claimants have not been put to question by any of the sides and thus, has attained finality. Since much of the record stood destroyed in the fire that engulfed the record room therefore not much is before this Court for better appreciation. As is evident, the widow as PW2 has testified that the deceased was running a Karyana shop besides having an agency of Pearless Company and has stated that the deceased was earning ₹4,000 per month by placing reliance upon the documents Ex.P1 and Ex.P2, whereas the learned Tribunal has taken the earnings of the deceased to be ₹1,000 per month without giving any substantive reasoning.

Having regard to the fact that the Act is a welfare Statute and therefore, needs to be construed favorably for the claimants and keeping in view the socio economic status of the family, the age of the deceased and his avocation, it would be in the fitness of things to consider earnings of the deceased to be ₹2,000 per month and assuming that the deceased must be spending 1/4 of his earnings on his own upkeep and maintenance and must be contributing ₹1,500 towards running of the household in those days which is a reasonable amount and therefore, annual dependency comes to ₹18,000. Keeping in view that the deceased is proven to be aged around 32 years as per the post-mortem report Ex.P5, and therefore, multiplier of 16 needs to be applied and thus compensation comes to ₹2,88,000. Having regard to the fact that the family must have spent money on the last rites and ceremonies of the deceased, besides the widow has lost her life companion at a young age, children their father a source of love and affection and a father his son, and under all these conventional heads a sum of ₹2.00 lacs is awarded. Thus, total amount of compensation comes to ₹4,88,000 (rupees four lacs eighty eight thousand only).

Keeping in view that the requirements of the children and widow are on the higher side than that of the father, therefore, it would be in the fitness of things if the widow Saraswati Devi and children are held entitled to 90% of the total amount of compensation in equal shares, whereas the father shall be entitled to remaining 10% of the amount.

Besides this, the claimants are also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. If any of the minor claimants has attained majority, his/her share shall not be resorted to by way of FDR. Rest of the stipulations laid down by the Tribunal shall remain the same.

No other argument has been raised.

Finding the Award to be on the lower side, the same needs to be rectified and modified and is accordingly done so by way of acceptance of the instant appeal and modification of these findings.

**(FATEH DEEP SINGH)**
**JUDGE**

**February 11, 2015**
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