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

**FAO No.4142 of 2012 (O&M)
Date of Decision: August 10, 2015.**

Smt. Vidhya and others

..........APPELLANT(s).

VERSUS

Balwan Singh and others

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. S.S. Shekhawat, Advocate
for the appellant (s).

None for the respondents.

****

SURINDER GUPTA, J.

This is an appeal against the award dated 28.02.2012 passed by Motor Accident Claims Tribunal, Rohtak (later referred to as the Tribunal) vide which the appellants-claimants were allowed compensation to the tune of ₹4,56,000/- for the death of Balwan Singh, in a motor accident involving Tata Canter bearing registration No.HR-69-A/0315(later referred to as the offending vehicle).

As per the case of the claimants, Balwant Singh (since deceased) husband of appellant-claimant No.1 and father of appellants-claimants No.2 to 4, was coming home on a tractor along with Ranvir, Rajinder, Meinpal and Kala. The tractor was being driven by Ranvir. When they reached near Gohana Road, Rohtak, the offending vehicle which was being driven by its driver in a rash and negligent manner, came and hit the tractor trolley. As a result of the accident, Ranvir, Rajinder and Balwan sustained multiple injuries while Meinpal and Kala sustained simple injuries. Balwan Singh succumbed to the injuries sustained in the accident. The matter was reported to the police and FIR (Ex.P1) was registered. Respondent No.1 was the driver of the offending vehicle which was owned by respondent No.2 and insured with respondent No.3.

In the written statement filed by respondents No.1 and 2, the factum of accident as alleged by the claimants was denied. It was, however, submitted that respondent No.1 was having a valid and effective driving licence at the time of accident and vehicle was insured with respondent No.3.

Respondent No.3-insurance company contested the claim with the plea that respondent No.1 was not having a valid and effective driving licence at the time of accident and insured has violated the terms and conditions of the policy, as a result of which liability of the insurance company was not attracted to pay any compensation.

The Tribunal reached the conclusion that the accident had taken place due to rash and negligent driving of offending vehicle by respondent No.1. The income of deceased Balwan was taken as that of a labourer @ ₹3,500/- per month. After making deduction of $1/4^{th}$ from the earnings of the deceased towards his personal expenses and by applying multiplier of 14 in view of age of the deceased as 42 years, a compensation of ₹4,56,000/- was allowed which included ₹10,000/- towards transportation and funeral expenses and ₹5,000/- towards loss of consortium for appellant No.1.

I have heard learned counsel for the parties and perused the paper book with their assistance.

Learned counsel for the appellant has argued that the Tribunal has taken ₹3,500/- per month as income of the deceased ignoring the fact that even as per D.C. Rates, the income of semi-skilled labourer was ₹4,850/- per month in the year 2009. No enhancement was given towards the future prospects. As held in case of ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 Supreme Court Cases 54,*** the amount towards loss of consortium to the spouse and for loss of love and affection and guidance to the minors is ₹1 lac each. The amount towards funeral expenses and transportation has been allowed as ₹10,000/-, which is also required to be enhanced to ₹50,000/-.

On perusal of the award passed by the Tribunal, I find that the income of the deceased has been taken as income of a labourer @ ₹3,500/- per month. Learned counsel for the appellants could not refer to any evidence produced before the Tribunal that the deceased was a semi-skilled labourer or that as per the labour rate fixed by the Deputy Commissioner, Rohtak, a labourer, in the year 2009, was entitled to monthly income of ₹4,850/- per month. In the absence of any evidence, I do not find any infirmity in the observation made by the Tribunal with regard to the monthly income of the deceased.

The age of the deceased was 42 years at the time of accident. As observed in case of ***Rajesh and others Vs. Rajbir singh and others (supra) and Munna Lal Jain versus Vipin Kumar Sharma, (2015) 6 SCC, 347***, a sum equal to 30% is to be added in the income of the deceased towards future prospects. Taking this in view, the compensation of the claimants works out to be as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Salary	₹3,500 per month
(ii)	30% of (i) above to be added as future prospects	(₹3,500+ ₹1050)= (₹4,550 per month)
(iii)	1/4th of (ii) deducted as personal expenses of the deceased	(₹4,550-₹1137)= ₹3413 per month
(iv)	Compensation after multiplier of 14 is applied	(₹3413X12X14)= ₹5,73,384
(v)	Loss of consortium	₹1,00,000
(vi)	Loss of care and guidance for minor children	₹1,00,000
(vii)	Funeral and transportation expenses	₹50,000
Total		₹823384

The appeal is accepted. The award of the Tribunal is modified and the appellants-claimants are allowed compensation of ₹8,23,384/- for the death of Balwan Singh. The above amount will carry interest 7.5% per annum as allowed by the Tribunal from the date of filing of the petition till actual realization. The amount of enhanced compensation shall be shared equally by the claimants. Respondent No.3-insurance company will deposit the share of claimants in their bank accounts or pay the same through demand drafts. The share of minor Jyoti-appellant No.4, who as per her age given at the time of filing of the petition is still minor, will be deposited in some nationlized bank as fixed deposit till the period she attains majority. It is, however, made clear that the bank may take the documents regarding the age of the minor as required at the time of deposit of the amount and the minor shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in her name after the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually gives to bring the order of the Tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed ₹20,000/-.

(SURINDER GUPTA)
JUDGE

August 10, 2015.
Sachin M.