IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6445 of 2012 (O&M)
Date of Decision:- 28.07.2015

Daya Rani and others

.....Appellants

Versus

Rajinder Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. **Whether Reporters of local papers may be allowed to see the judgment? Yes**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest? Yes**

Present: Mr. Baldev Singh Dhillon, Advocate,
for the appellants.

Mr. Sanjay Jain, Advocate
for respondent No.1.

Mr. Sagar Aggarwal, Advocate
for Mr. Ashit Malik, Advocate
for respondent No.2-Insurance Company.

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SHEKHER DHAWAN, J.

The present appeal is challenge to the Award dated 21.08.2012, passed by the Motor Accidents Claims Tribunal, Ambala (hereinafter to be referred as 'The Tribunal'), whereby 'The Tribunal' awarded the compensation of ₹5,08,000/- on account of death of Babu Ram.

2. Facts not in dispute that Babu Ram died in a motor vehicle accident on 23.10.2011, leaving behind widow and three children, out of them one minor son and one unmarried daughter as well. 'The Tribunal' awarded compensation taking the income of the deceased to be ₹4,500/- per month treating Babu Ram to be causal worker.

3. Learned counsel for the appellants took the plea that 'The Tribunal' has not taken the income of the deceased correctly because as per price index in the year 2011, even the minimum wage of a worker was on much higher. However, there is no documentary evidence available on file in this regard. Learned counsel for the appellants also took the plea that 'The Tribunal' has completely ignored the fact that claimants are entitled to seek enhancement on account of future earnings, as the age of deceased was 45 years and with the passage of time the income of Babu Ram was to grow considerably. Learned counsel for the appellants also sought enhancement on the ground that 'The Tribunal' has not awarded any amount on account of loss of consortium for the widow and loss of love and affections for minor son and unmarried daughter. Even minimum amount of ₹25,000/- has not been awarded on account of funeral expenses, as per law laid down by Hon'ble Supreme Court in cases **Sarla Verma** Vs. **Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77** and **Rajesh and others** Vs. **Rajbir Singh and others**, **2013 (3), RCR (Civil) 170.**

4. Learned counsel for respondent No.2- Insurance Company took the plea that 'The Tribunal' has taken into consideration the income,

which was prevalent on the date of accident and there are no grounds to set aside the findings regarding income. Otherwise also, 'The Tribunal' has awarded just compensation, as there was no proof regarding income and 'The Tribunal' awarded compensation under almost all the permissible heads. So, the appeal be dismissed.

5. Having considered the rival submissions made by learned counsel for the parties, this Court is of the considered view that 'The Tribunal' has taken the income of the deceased to be ₹4,500/- per month, as per evidence available on file. Admittedly there was no documentary evidence so as to arrive at a different conclusion than 'The Tribunal' recorded on the point of income. Even there is nothing available on file as per appeal, so as to effect the findings of 'The Tribunal' regarding income of the deceased. 'The Tribunal' has not taken into consideration the fact that the age of the deceased was 45 years and with the passage of time his earnings were to grow and claimants certainly suffered a loss on that account. As per law laid down by Hon'ble Supreme Court in **Sarla Verma's case (supra)** as well as **Rajesh and others case (supra),** claimants are entitled to seek 30% enhancement on account of enhanced future earnings, as the age of the deceased Babu Ram was more than 45 years. As regards to deduction on account of self dependency, 'The Tribunal' has deducted $1/3^{rd}$ on account of self dependency, whereas it should be $1/4^{th}$, as there were four claimants in this case. Claimants are also entitled to receive a sum of Rs.1,00,000/- on account of loss of consortium for the widow, a sum of ₹1,00,000/- each for loss of love and

affection for one minor son and unmarried daughter. Minimum amount of ₹25,000/- was to be awarded on account of funeral expenses. Accordingly, the amount of compensation is reassessed as under: -

Monthly income	₹4,500/-
Annual Loss of income	₹4,500 x 12 = ₹54,000/-
Applying multiplier of 13	₹54,000/- x 13 = ₹7,02,000/-
Less 1/4th on account of self dependency	₹1,75,500/-
	₹7,02,000/- - ₹1,75,500/- = ₹5,26,500/-
Addition of 30% on account of loss of enhanced future earnings	₹5,26,500/- + ₹1,57,950/- = ₹6,84,450/-
Loss on account of love and affection for one minor son and unmarried daughter	₹2,00,000/-
Loss of consortium for widow	₹1,00,000/-
Funeral expenses	₹25,000/-
Total compensation	₹6,84,450/- + ₹2,00,000/- + ₹1,00,000/- + ₹25,000 = ₹10,09,450/-
Enhanced amount of compensation	₹10,09,450/- – ₹5,08,000/- = ₹5,01,450/-

6. The enhanced amount of compensation of ₹5,01,450/- shall be payable from the date of claim petition along with interest @ 7.5% per annum from the date of claim petition. Remaining conditions of disbursal of amount shall remain unaltered.

7. Accordingly, the present appeal is accepted partly.

(SHEKHER DHAWAN)
JUDGE

July 28, 2015
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