IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.4875 of 2013 (O&M)

Date of Decision: 06.08.2015

Vipin Singh and others

......Appellants

Versus

Satnder Singh and others

......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. S.S.Khurana, Advocate,
for appellants.

Mr. Sanjeev Kodan, Advocate,
for respondent No.3.

***

SHEKHER DHAWAN, J

Appellants have challenged the order dated 18.12.2012 whereby Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'The Tribunal') awarded compensation of ₹17,88,806/- on account of death of Awadesh Parshad in motor vehicle accident which took place on 13.03.2010.

2. Taking the case from admitted facts that motor vehicle accident took place on 15.03.2010. Awadesh Parshad (since deceased) was going to his house situated in Housing Board Colony, Sector 6, Dharuhera when he was crossing the road, Indica car bearing registration No.HR-26AE/0517 being driven in rash and negligent manner and at a very high speed hit him

and because of injuries, Awadesh Parshad died. 'The Tribunal' awarded compensation of ₹17,88,806/-. Being dis-satisfied with the awarded amount of compensation, appellants are in appeal before this Court.

3. Learned counsel for appellants took the plea that Awadesh Parshad was working as Operator (Press Shop) in M/s Hero Motors Limited as well as was doing business of property dealing and was earning ₹70,000/- per month. His salary income was proved as per statement of Ajay Kumar, Asstt. Manager (HR) Hero Motor Corp. Ltd. Dharuhera who made statement as per record that salary of Awadesh Parshad was ₹40,751/- per month. But 'The Tribunal' assessed the salary of the deceased to be ₹15,118/- per month. Even the income tax return filed by the deceased were not taken into consideration. 'The Tribunal' deducted 1/4th amount from the income of the deceased while calculating the dependency. Multiplier of 13 was applied which is on the lower side and amount of compensation be re-assessed.

4. Learned counsel for respondent took the plea that the amount of compensation has been calculated as per evidence available on file.

5. Having considered the rival submissions made by learned counsel for the parties and perusal of record this Court is of the view that 'The Tribunal' has rightly taken the view that gross salary of ₹40,751/- as per salary certificate Exhibit PD includes certain allowances which cannot be taken into account while assessing the loss of income on account of death of Awadesh Parshad. More so Awadesh Parshad was getting net salary of ₹10,902/- only and 'The Tribunal' has taken that monthly income to be ₹15,118/- which includes basic pay of ₹12,735/- and Dearness Allowance of ₹2383/-. Law on the point is settled that annual income of the

deceased is not to be taken into account but the real loss of earnings for the family of deceased is to be taken into account for that purpose. House Rent Allowance ₹4498/-, Children Education Allowance of ₹708/- and non texable medical allowance of ₹2211/- were required to be taken into account while assessing the income of the deceased for compensation to the family of deceased. Apart from that 30% is to be added on account of enhanced future earnings as age of the deceased was 48 years on the date of accident. As per law laid down by Hon'ble Supreme Court in case **Rajesh and others Vs. Rajbir Singh and others, 2013(9) SCC 54**, 30% salary is to be added on that account. Accordingly the amount of compensation is re-assessed as under:

Monthly income	₹22,535/-	
Less self dependency 1/4th	₹5634/-	
Annual income	₹16,901/- x 12	₹2,02,812/-
Add 30% on account of future earnings	₹60,844/- + ₹2,02,812/-	₹2,63,656/-
Multiplier of 13	₹2,63,656/- x 13	₹34,27,528/-
Loss of love and affection for two minor children of the deceased	₹1,00,000/- each	₹2,00,000/-
Loss of love and affection for two children of the deceased	₹50,000/- each	₹1,00,000/-
Funeral Expenses		₹25,000/-
Total compensation		₹37,52,528/-
Less compensation already awarded	₹17,88,806/-	
Enhanced compensation		₹19,63,722/-

6. The appeal is allowed partly and the enhanced compensation of ₹19,63,722/- shall be payable from the date of claim petition. Appellants shall also be entitled to interest @ 7.5% per annum on the enhanced amount

from the date of filing of the claim petition till its realization.

7. Present appeal partly accepted.

(SHEKHER DHAWAN)
JUDGE

August 06, 2015
msd