IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3477 of 2002 (O&M)

Date of decision : 1.4.2016

Krishna Devi and others

...Appellants

Versus

Rajinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

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

Mr. R.N.Singal, Advocate for respondent No.3.

Mr. Saurabh Mohunta, DAG Haryana.

JITENDRA CHAUHAN, J.

This appeal is directed against the award dated 24.10.2001 passed by Motor Accidents Claims Tribunal, Rohtak (for short `the Tribunal') vide which compensation of Rs.3,91,000/- was awarded to the claimant/appellants on account of death of Sahab Singh. The claimants are seeking enhancement of the compensation.

On 3.3.1999 Sahab Singh died in a motor vehicular accident. His widow, daughters, sons and parents filed claim application under Section 166 of Motor Vehicles Act, 1988 before the

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Tribunal. The Tribunal vide the impugned award dated 24.10.2001 assessed the income of the deceased at Rs.3000/-per month. Deduction of 1/3rd was made towards personal expenses of the deceased. Multiplier of 16 was applied and the loss of dependency was assessed at Rs.3,84,000/-. A sum of Rs.5000/- was awarded on account of loss of consortium. Another sum of Rs.2000/- was awarded towards funeral expenses. In all, total compensation of Rs.3,91,000/- was awarded to the claimants.

It is contended by learned counsel for the appellants that since the number of family members was five, deduction of 1/5th ought to have been made instead of 1/3rd. It is further contended that nothing was awarded on account of future prospects. The amount awarded under the heads of loss of consortium and loss of love and affection is on the lower side.

Learned counsel for the respondent-Insurance Company states that the income taken by the Tribunal is on the higher side as minimum wages in the relevant year were Rs.2050/- per month.

So far as the income of the deceased is concerned, since the Insurance Company has not filed any appeal or Cross Objections, so this Court would not like to interfere in the income part. Consequently, the income of the deceased is upheld as Rs.3000/-per month.

In view of the judgment of ***Rajesh Vs. Rajbir and others 2013(3) RCR (Civil) 170***, 30% is added to the income of the deceased

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towards future prospects. So, the income of the deceased is assessed at Rs.3900/- (3000+900=3900/-). As per the dictum of law laid down in ***Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(3) RCR (Civil) 77*** deduction of 1/5th is required to be made from the income of the deceased. Accordingly, a sum of Rs.780/- is deducted on account of personal expenses (Rs.3900-780=Rs.3120/-). Accordingly, income of the deceased is assessed at Rs.3120/- per month. A sum of Rs.5000/-on account of loss of consortium is on the lower side and as such, the same is enhanced to Rs.One lac. Further, a sum of Rs.One lac is awarded towards love and affection to the children.

In view of the above, the claimant is held entitled to the enhanced compensation of Rs.4,08,040/- over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which shall be also entitled to interest @ 7.5% from the date of filing the present appeal, till its realisation.

1.4.2016 **(JITENDRA CHAUHAN)**
Meenu **JUDGE**

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