IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.1146 of 2002.
Date of Decision: 22.03.2016.

Krishni Devi and another ....Appellants.

VERSUS

Narender Kumar and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Sukhdev Singh, Advocate for
Mr. Harkesh Manuja, Advocate for the appellants.

Mr. R.C. Kapoor, Advocate for respondent No.3.

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SNEH PRASHAR, J.

Appellants-Krishni Devi and another filed this appeal seeking enhancement of compensation awarded to them vide the award dated 30.08.2001 passed by Motor Accident Claims Tribunal, Panipat (for short, “the Tribunal”).

A petition invoking the provisions of Section 163-A of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) was filed by appellants-Krishni Devi and another claiming compensation on account of death of their son Suresh on 25.02.1999 in a motor vehicular accident caused by Narender Kumar-respondent No.1 while driving bus bearing registration No.HR-45-0626 (hereinafter referred to as the “offending bus”) rashly, negligently and in a high speed. The driver, owner and insurer were impleaded as respondents No.1 to 3. They contested the petition raising various objections but after trial learned Tribunal allowed the petition and awarded a sum of Rs.60,000/- as compensation to the claimants.

Feeling unsatisfied with the award, the appellants preferred the instant appeal.

The submissions made by Mr. Sukhdev Singh, learned counsel for the appellants and Mr. R.C. Kapoor, learned counsel for respondent No.3 have been heard.

Learned counsel for the appellants argued that the deceased was a tailor and used to earn Rs.6000/- per month but learned Tribunal wrongly assessed his income as Rs.1500/- per month. The deceased being 20 years old, the multiplier of '5' chosen by learned Tribunal was not appropriate. Also, no amount was allowed for funeral expenses and loss of estate.

Except for bald ocular testimony of PW1 Krishni, mother of the deceased, no document, worth in its name, was tendered in evidence by the claimants to prove that the deceased was engaged in the business of tailoring. In absence of some substantive evidence with regard to occupation and income of the deceased, learned Tribunal rightly considered him a casual labourer. However, the income of the deceased assessed as Rs.1500/- per month appears quite less. In the relevant year the income of a young boy can be assessed as Rs.24,000/- per annum. The deceased being 20 years old when he died in the accident, the appropriate multiplier will be

'17' as per the Second Schedule of the Act of 1988. Applying the said multiplier, the amount comes to Rs.4,08,000/- (24,000 x 17). As per the note given at the bottom of the Second Schedule, 1/3rd is to be deducted towards the expenses which the victim would have incurred in maintaining himself had he been alive. After deduction the amount comes to Rs.2,72,000/-. Perusal of the award shows that no amount was awarded by learned Tribunal for funeral expenses and loss of estate. An amount of Rs.2000/- as funeral expenses and Rs.2000/- on account of loss of estate is also allowed to the appellants.

Accordingly, the appeal filed by the appellants is partly allowed and the award dated 30.08.2001 passed by learned Tribunal is modified. The enhanced compensation of Rs.2,16,000/- shall be deposited by the respondents within 45 days from the date of receipt of certified copy of this judgment failing which the appellants-claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing the appeal till realization.

(SNEH PRASHAR)
JUDGE

22.03.2016.
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