IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.996 of 1997 (O&M)
Date of Decision: August 17, 2016.

Ram Dulari and others

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

VERSUS

Haryana Roadways and others

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

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Vandana Malhotra, Advocate
amicus-curaie for the appellant (s).

Mr. Ram Tilak Redhu, D.A.G. Haryana
for respondents No.1 and 2.

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SURINDER GUPTA, J.

This is appeal against the award dated 03.01.1997 passed by Motor Accident Claims Tribunal, Ambala (later referred to as the Tribunal) allowing compensation of ₹2,01,600/- for the death of Ram Saran (later referred to as the deceased), husband of appellant No.1, father of appellants No.2 to 6 and son of appellant No.7, in a motor vehicle accident, which took place on 02.11.1990 with Haryana Roadway Bus No.HNR-2304 (later referred to as the offending bus).

2. As the only issue involved in this appeal relates to seeking of enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. The Tribunal allowed compensation of ₹2,01,600/- to the

appellants-claimants, which was computed as follows:-

(i)	Age of the deceased	: 50 years
(ii)	Monthly income	: ₹1800/-
(iii)	Deduction towards personal expenses	: 1/3rd (1800-600=1200)
(iv)	Multiplier	: 14
(v)	Total	: 1200X12X14=₹201600

4. Learned counsel for the appellants-claimants has argued that the deceased was in fact 40 years of age, which was mentioned in his post-mortem report. The claimants are entitled to 30% addition in the income of the deceased towards his future prospects, besides compensation for loss of consortium for claimant No.1, for loss of love and affection care and guidance for minor children i.e. claimants No.2 to 6, for loss of estate for respondent No.7 and funeral expenses as well. The Tribunal has applied the deduction of 1/3rd towards personal expenses which as per the norms in ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121,*** should be 1/5th. The income of the deceased who was a shop keeper, has also been assessed on lower side.

5. Learned D.A.G. Haryana for respondents No.1 and 2 has argued that while assessing the age of the deceased, the Tribunal has relied on the statement of claimant No.1 herself, who has deposed the age of her husband as 50 years. In view of the testimony of claimants, the age of the deceased as mentioned in the PMR cannot be relied. The accident took place in the year 1990 and the Tribunal has rightly assessed the income of the deceased as per the price index prevailing at the relevant time and the claimants are not entitled to any enhancement on this score.

6. Firstly, I take the issue of age of deceased, which as per the

claimant Ram Dulari PW11 was 50 years. She has given her age as 45 years. There is no reason to disbelieve the testimony of claimant, who is best person to have first hand knowledge regarding the age of the deceased, as such, the same is taken as 50 years. Even otherwise, the age in post-mortem report is not recorded on verification from documents concerning age of deceased, but as per information supplied by relative or friend of the deceased, present at that time or on the basis of appearance of dead-body.

7. According to the statement of claimant No.1-Ram Dulari, her husband was running a shop. In the absence of any documentary evidence and as per the price index prevailing at the relevant time, the Tribunal has committed no error in assessing the income of the deceased as ₹1800/- per month. As per the observations in case of ***Rajesh and others Vs. Rajbir and others (2013)9 SCC 54,*** the claimants are entitled to 15% addition in the income of the deceased. Besides this, the claimants are also entitled to compensation for the loss of love and affection, care and guidance for minor children, for loss of consortium for the wife, for loss of love and affection for the mother and funeral expenses, which are to be quantified as per the prevailing price index in the year 1990 i.e. 26 years ago. As such, compensation of ₹25,000/- is allowed towards loss of consortium for claimant No.1; ₹25,000/- towards loss of love and affection and estate for claimant No.7; ₹5,000/- towards funeral expenses and ₹1,00,000/- towards loss of love and affection care and guidance for minor children i.e. claimants No.2 to 6.

8. As a sequel of my above discussion, the amount of compensation to which claimants are entitled to, is re-assessed as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Income	₹1800 per month
(ii)	15% of (i) above to be added as future prospects	(₹1800+ ₹270)= (₹2070 per month)
(iii)	1/5th of (ii) deducted as personal expenses of the deceased (as per observations in ***Sarla Verma and others (supra)*** case)	(₹2070-₹414)= ₹1656 per month
(iv)	Compensation after multiplier of 13 is applied	(₹1656X12X13)= ₹258336
(v)	Loss of consortium	₹25000
(vi)	Loss of care and guidance for minor children	₹100000
(vii)	Loss of estate	₹25000
(viii)	Funeral and transportation expenses	₹5000
Total		₹413336

9. The appeal is accepted. The award of the Tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹2,01,600/- to ₹4,13,336/- for death of deceased Ram Saran. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the petition till actual realization. The amount of enhanced compensation shall be apportioned between the claimants as follows:-

1. Claimant No.1-wife of the deceased : 50%
2. Claimants No.2 to 6-minor children : 40%
3. Claimant No.7-mother : 10%.

10. In case of demise of any of above claimant(s), his/her share of compensation shall be apportioned equally amongst other surviving claimants. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed ₹5,000/-.

(SURINDER GUPTA)
JUDGE

August 17, 2016.
Sachin M.

Whether speaking/reasoned: √ ***Yes/No***

Whether Reportable: √ ***Yes/No***