IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Date of Decision: 14.03.2016.

FAO No.2840 of 2001

Sukhwinder Kaur and others ....Appellants.

VERSUS

Puran Singh and others ....Respondents.

WITH

FAO No.2852 of 2001

Surjit Kaur (since deceased) through L.Rs. and others ....Appellants.

VERSUS

Puran Singh and others ....Respondents.

AND

FAO No.2853 of 2001

Hari Singh (since deceased) through L.Rs. and others ....Appellants.

VERSUS

Puran Singh and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. C.M. Munjal, Advocate for the appellants.
Mr. D.P. Gupta, Advocate for respondent No.4.

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SNEH PRASHAR, J.

The above captioned three first appeals had arisen from an award dated 12.12.2000 passed by Motor Accident Claims Tribunal, Mansa (for short, “the Tribunal”) in MACT Case No.3, 4 and 19 of 1999 by virtue of which appellants-claimants were awarded compensation. All the three appeals shall stand disposed of by this common judgment.

The facts as garnered from the record are that on 10.12.1998 at about 1:15 p.m. in the area of Sardulgarh, a bus bearing registration No.PB-31-2781, on being driven rashly, negligently and in a high speed by Puran Singh-respondent No.1 first hit scooter No.PB-51-3028 (hereinafter referred to as the “scooter”), and then hit Jasmer Kaur alias Jaswinder Kaur who was standing beside the road. Scooter driver Gurpiar Singh and pillion rider Joga Singh sustained fatal injuries and died. Jasmer Kaur succumbed to the injuries on the way to the hospital. First Information Report No.142 dated 10.12.1998 was registered in respect of the accident at Police Station Sardulgarh against Puran Singh-respondent No.1.

Separate claim petitions invoking the provisions of Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) were filed by legal heirs of Jasmer Kaur, Joga Singh and Gurpiar Singh, claiming compensation from driver, owner and insurer of the offending bus (respondents No.1 to 3). The respondents contested the petitions. In the written reply filed by them they denied the factum of accident and also denied involvement of the offending bus in any accident as pleaded by the claimants. First Information Report was alleged to have been got registered in collusion with the police to extract compensation.

In the claim petition filed by Hari Singh and others, an amount of Rs.1,02,800/- was awarded; in the claim petition filed by Surjit Kaur and others, an amount of Rs.2,42,000/- was awarded; and in the claim petition filed by Sukhwinder Kaur, an amount of Rs.2,90,000/- was awarded as compensation.

Feeling unsatisfied, the appellants preferred the instant appeals.

The submissions made by Mr. C.M. Munjal, learned counsel for appellants and Mr. D.P. Gupta, learned counsel for respondent No.4-insurance company have been heard.

It is not a contentious issue that three persons namely, Jasmer Kaur, Joga Singh and Gurpiar Singh lost their life in a motor vehicular accident caused by Puran Singh due to his rash and negligent driving of the offending bus. The liability interse the respondents as held by learned Tribunal is also not disputed. In other words, the finding of learned Tribunal that the insurance company (respondent No.4) is liable to indemnify the insured has since become final between the parties.

Learned counsel for the appellants argued that in FAO No.2840 of 2001 deceased Gurpiar Singh was owner of 25 acres of land and was an agriculturist. He was 45 years old. Learned Tribunal assessed his income as Rs.3000/- per month and deducting 1/3rd towards his personal and living expenses applied the multiplier of '12' to the amount assessed as loss of dependency whereas '14' was the appropriate multiplier. Learned counsel also pointed out that no amount was awarded by learned Tribunal to claimant-widow for loss of consortium and to the other claimants for loss of love and affection. Also Rs.2000/- awarded on account of expenses of last rites is inadequate.

Similarly, learned counsel for the appellants urged that in FAO No.2852 of 2001 the age of deceased Joga Singh was 47-48 years but learned Tribunal applied the multiplier of '10' instead of '13'. Nothing else was awarded under the conventional heads except Rs.2000/- towards funeral expenses which was on the lower side.

As regards, FAO No.2853 of 2001, learned counsel asserted that deceased Jasmer Kaur was a household lady and was about 46 years old. Learned Tribunal instead of applying the multiplier of '13' to the amount worked out as loss of dependency of the claimants applied the multiplier of '12'. In this case also nothing was awarded to the claimants under the conventional heads except Rs.2000/- on account of funeral expenses, which too was very less.

In FAO No.2840 of 2001 considering the fact that deceased Gurpiar Singh was an agriculturist and was managing his agricultural land himself, the income of the deceased was rightly assessed as Rs.3,000/- per month. Perusal of the award shows that no amount was added to the income computing future prospects. Following the ratio of ***Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170*** since the age of the deceased was 43 years, there has to be an addition of 30% to the actual income of the deceased on account of future prospects. The deceased is survived by widow-Sukhwinder Kaur, three legal representatives of Jaswinder Singh, a predeceased son who were also his dependents, and son-Rajwinder Singh, therefore, the deduction of Rs.1000/- per month towards personal and living expenses of the deceased, was wrongly made by learned Tribunal whereas as per the law laid down in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77*** deduction of 1/4th should have been made. Learned Tribunal applied the multiplier of '12' whereas according to the age of the deceased '14' would be the appropriate multiplier. Accordingly, the compensation payable to the appellants-Sukhwinder Kaur and others is calculated as under:-

1.	Monthly income of the deceased (in Rupees)		Rs.3000/-
2.	Actual age of the deceased		43 years
3.	Increase in future income as per Rajesh and others case (supra)		Rs.900/-
4.	Annual dependency		3/4 of Rs.3900 x 12 = Rs.35,100/-
5.	Multiplier		14
6.	Total		Rs.4,91,400/-

In addition to the amount of Rs.4,91,400/- calculated towards dependency, the amount of Rs.2000/- awarded under the head of funeral expenses is enhanced to Rs.25,000/-. An amount of Rs.1,00,000/- is awarded to appellants for loss of love and affection. A further amount of Rs.1,00,000/- is awarded to widow Sukhwinder Kaur for loss of consortium. In the above premise, the appellants-Sukhwinder Kaur and others are held entitled to enhanced compensation of Rs.4,26,400/- in addition to the amount already awarded by learned Tribunal.

Similarly, in FAO No.2852 of 2001 considering the facts and circumstances of the case, the income of deceased Joga Singh was rightly assessed as Rs.3,000/- per month. Perusal of the award shows that no amount was added to the income computing future prospects. Following the ratio of ***Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170*** since the age of the deceased was about 48/50 years, there had to be an addition of 30% to the actual income of the deceased on account of future prospects. The deceased is survived by mother-Surjit Kaur (since deceased) through L.Rs., widow Gurnam Kaur and three sons Nasib Singh, Gurmit Singh and Gurjit Singh, therefore, the deduction of Rs.1000/- per month towards personal and living expenses of the deceased, was wrongly made by learned Tribunal whereas as per the law laid down in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77*** deduction of 1/4th should have been made. Learned Tribunal applied the multiplier of '10' whereas according to the age of the deceased '13' would be the appropriate multiplier. Accordingly, the compensation payable to the appellants and others is calculated as under:-

1.	Monthly income of the deceased (in Rupees)		Rs.3000/-
2.	Actual age of the deceased		48/50 years
3.	Increase in future income as per Rajesh and others case (supra)		Rs.900/-
4.	Annual dependency		3/4 of Rs.3900 x 12 = Rs.35,100/-
5.	Multiplier		13
6.	Total		Rs.4,56,300/-

In addition to the amount of Rs.4,56,300/- calculated towards dependency, the amount of Rs.2000/- awarded under the head of funeral expenses is enhanced to Rs.25,000/-. An amount of Rs.1,00,000/- is awarded to appellants for loss of love and affection. A further amount of Rs.1,00,000/- is awarded to widow Gurnam Kaur for loss of consortium. In the above premise, the appellants are held entitled to enhanced compensation of Rs.4,39,300/- in addition to the amount already awarded by learned Tribunal.

As regards FAO No.2853 of 2001 deceased Jasmer Kaur was a household lady aged about 45 years. In view of the services rendered by her to the family members, Rs.700/- per month was assessed as her income. The services rendered by a housewife cannot be less valued than what a daily wager can earn. Considering the relevant facts the income of the deceased is assessed as Rs.1500/- per month i.e. Rs.18,000/- per annum. Learned Tribunal applied the multiplier of '12' whereas as per the law laid down in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77*** multiplier of '14' would be the appropriate multiplier. Accordingly, the compensation payable to the appellants comes to Rs.2,52,000/-.

In addition to the amount of Rs.2,52,000/- calculated towards dependency, the amount of Rs.2000/- awarded under the head of funeral expenses is enhanced to Rs.25,000/-. An amount of Rs.1,00,000/- is awarded to appellants No.2 and 3 for loss of love and affection. In the above premise, the appellants are held entitled to enhanced compensation of Rs.3,77,000/- in addition to the amount already awarded by learned Tribunal. The rate of interest allowed by learned Tribunal shall remain the same.

Accordingly, all the three appeals filed by the appellants are partly allowed and the award dated 12.12.2000 passed by learned Tribunal is modified. The enhanced amount of compensation shall be deposited by the respondent-insurance company within 45 days from the date of receipt of certified copy of this judgment failing which appellants 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. The amount of compensation will be disbursed to the appellants-claimants in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

14.03.2016.
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