

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

FAO No.4327 of 2001 (O&M).

Date of Decision: 07.04.2016.

Santosh Devi and others

....Appellants.

VERSUS

Mata Deen and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Naresh Kumar Ganga, Advocate for
Mr. R.D. Yadav, Advocate for the appellants.

Mr. Sudhanshu Makkar, Advocate for respondents No.1 and 2.

Mr. Vinod Gupta, Advocate for respondent No.3.

Service of respondent No.4 was dispensed with vide order
dated 12.08.2014.

SNEH PRASHAR, J.

By way of this appeal, appellants-Santosh Devi and others seek enhancement of compensation awarded to them by Motor Accident Claims Tribunal, Rewari (for short, "the Tribunal") vide award dated 27.08.2001 passed in MACT Case No.232 of 21.12.1998 on account of death of Yudhvir Singh (husband of appellant No.1 and son of appellants No.2 and 3), who lost his life in a vehicular accident.

The submissions made by Mr. Naresh Kumar Ganga, learned counsel for the appellants, Mr. Sudhanshu Makkar, learned counsel for

respondents No.1 and 2 and Mr. Vinod Gupta, learned counsel for respondent No.3 have been heard.

The facts are that on 26.02.1995 Yudhvir Singh (since deceased) being conductor was travelling from Bombay to Delhi in a TATA-709 bearing registration No.HR-47-1104 (hereinafter referred to as the “offending TATA-709”) which was being driven by Matadeen (respondent No.1) rashly, negligently and in a high speed. His request to Matadeen to slow down the speed and drive cautiously fell on deaf ear and the offending Tata-709 struck against Tanker No.GJ-7U-6669 (hereinafter referred to as the “offending Tanker”) near Navsari Police Station on NH-8. Yudhvir Singh sustained injuries and died at the spot. The claimants-appellants alleged that the accident took place due to contributory negligence of both the vehicles.

The driver, owner and insurer (respondents No.1 to 3) of the offending TATA-709 and the owner (respondent No.4) of the offending Tanker contested the petition denying the allegations levelled in the petition. On the basis of the pleadings of the parties, issues were settled. Both the parties adduced evidence to discharge the onus of the issues on them. Considering the evidence available on record and the submissions made on behalf of the parties, learned Tribunal partly allowed the petition and awarded Rs.2,13,320/- as compensation to the claimants alongwith interest at the rate of 9% per annum from the date of filing the petition till realization. The respondents were held jointly and severally liable to pay compensation.

Feeling dissatisfied, the claimants-appellants preferred the instant appeal.

Learned counsel for the appellants-claimants contends that at the time of accident the age of the deceased was 20 years. He was a conductor on the truck and was earning Rs.2500/- per month but learned Tribunal wrongly assessed his income as Rs.1400/- per month only. Considering the age of the deceased the appropriate multiplier to the amount of loss of dependency of the appellants was '18' whereas learned Tribunal applied the multiplier of '17'. No amount was added by learned Tribunal to the income of the deceased computing future prospects and the amount of Rs.10,000/- awarded towards funeral/transportation expenses is also on the lower side. No amount was awarded to the claimants for loss of consortium and loss of love and affection.

It was the plea of the appellants themselves that the deceased who was 20 years old when he died in the accident was earning Rs.1400/- per month. During evidence, they tried to exaggerate the amount pleaded as income by stating that he was employed as conductor on TATA-709 and was earning Rs.2500/- per month but learned Tribunal based on their pleadings assessed the income of the deceased as Rs.1400/- per month. Considering the year in which the accident took place and other relevant factors, the income of the deceased assessed by learned Tribunal is appropriate and calls for no intervention.

Perusal of the award shows that no amount was added to the income of the deceased computing future prospects. Following the ratio of

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since the deceased was 20 years aged when he died in the accident, there had to be an addition of 50% to the actual income of the deceased on account of future prospects, which learned Tribunal failed to allow.

The deceased is survived by widow-Santosh Devi, father-Dharamvir and mother-Chanderpati. There being three dependents, the deduction of 1/3rd from the income of the deceased towards his personal and living expenses is not required to be disturbed. The age of the deceased being 20 years, the multiplier of '18' should have been applied by learned Tribunal instead of '17'. Accordingly, the compensation payable to the appellants-claimants is calculated as under:-

1.	Monthly income of the deceased (in Rupees)	Rs.1400/-
2.	Actual age of the deceased	20 years
3.	Increase in future income as per Rajesh and others' case (supra)	Rs.700/-
4.	Annual dependency	1/3 of Rs.2100 x 12 = Rs.16,800/-
5.	Multiplier	18
6.	Total	Rs.3,02,400/-

In addition to the amount of Rs.3,02,400/- calculated towards dependency, the amount of Rs.10,000/- awarded under the head of funeral/ transporation expenses is enhanced to Rs.25,000/-. A further amount of Rs.50,000/- is awarded to the appellants-claimants No.2 and 3 for loss of love and affection, subject to their furnishing life certificates and an amount of Rs.1,00,000/- towards loss of consortium is allowed to appellant-claimant No.1.

Accordingly, the appeal filed by the appellants-claimants is partly allowed and the award dated 27.08.2001 passed by learned Tribunal is modified. The enhanced compensation of Rs.2,64,080/- 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 this order 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

07.04.2016.
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