IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.3270 of 1999 (O&M)

Date of Decision: September 26, 2016.

Smt. Surjeet Kaur and another

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

VERSUS

Subhash Chand Mittal and others

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

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sagar Aggarwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellant (s).

Mr. Rohit Goswami, Advocate for
Mr. D.P. Gupta, Advocate
for respondent No.3.

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SURINDER GUPTA, J.

This is appeal by claimants-appellants seeking enhancement of compensation awarded vide award dated 16.02.1999 passed by Motor Accident Claims Tribunal, Karnal (later referred to as 'the Tribunal') for death of Bhupinder Singh (later referred to as 'the deceased'), son of claimants, in a motor vehicle accident, which took place on 11.05.1997 due to rash and negligent driving of Matador bearing registration No. HR-05-6192 (later referred to as 'the offending vehicle').

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 awarded compensation of ₹1,40,000/- to the claimants, which was computed as follows:-

(i)	Monthly income	Rs.2,400/-
(ii)	Deduction of 1/3rd on personal maintenance and keep up expenses	Rs.800/-
(iii)	Total dependency	Rs.1,600/-
(iv)	Annual dependency	Rs.19,200/-
(v)	Multiplier of 3 at the rate of Rs.19,200/-	Rs.57,600/-
(vi)	Multiplier of 13 at the rate of Rs.500/- per month i.e. Rs.6000/- per annum.	Rs.78,000/-
(vii)	Expenses on late rites etc.	Rs.4,400/-
	Total	Rs.1,40,000/-

4. Learned counsel for the appellants-claimants has argued that as per the observations in case of ***Rajesh and others Vs. Rajbir and others (2013)9 SCC 54,*** claimants are entitled to 50% addition in the income of the deceased towards future prospects. The deceased was 26 years of age and the multiplier attracted in this case is 17 but the Tribunal has applied the multiplier of 16 and has further bifurcated it, which is not permissible. The claimants are also entitled to compensation towards loss of estate, love and affection. The Tribunal allowed compensation of ₹4,400/- towards expenses on last rites which is on lower side. Learned counsel for the appellants has further argued that the monthly income of the deceased taken as ₹2,400/- is also on lower side as the claimants have proved by examining PW2 Manjit Singh that he was in the business of selling milk. He produced on record copies of entries Ex.P1 and P2 to show that deceased had sold milk worth ₹77,152.50p during the period from May to December, 1996.

5. Learned counsel for respondent No.3 has argued that the

Tribunal has taken the income of the deceased not as a milk vendor but as better than a casual labourer as he is proved to be in the business of selling milk. The Tribunal has assessed his income more than income of a daily wager, who at that point of time, was earning ₹1500/- per month. The accident pertains to the year 1997 and the compensation awarded by the Tribunal is just and reasonable as per the price index prevailing at the relevant time. The Tribunal has also committed error as instead of taking 1/2 from the income of the deceased towards personal expenses, it has deducted 1/3rd.

6. As per the observations in case of ***Rajesh and others Vs. Rajbir and others (supra),*** followed in case of ***Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447,*** the claimants are entitled to 50% addition in the income of the deceased towards future prospects. As per the norms settled in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121,*** the multiplier attracted in this case is 17 and towards personal expenses of the deceased, who was unmarried, 1/2 of his income is to be deducted. The Tribunal has bifurcated the multiplier, which is not permissible as per the observations in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra)***.

7. Keeping in view the price index prevailing at that point of time, the claimants are also allowed compensation towards loss of estate, love and affection, amounting to ₹50,000/- and towards funeral expenses and last rites ₹10,000/-.

8. So far as income of the deceased is concerned, the Tribunal has

rightly taken it as ₹2,400/- per month. The deceased had sold milk worth ₹77,152/- from May, 1996 to December, 1996. Even if 25% of the price of milk is taken as margin of the deceased, his income as assessed by the Tribunal is not on lower side. The submission of learned counsel for the appellants in is regard is rejected.

9. As a sequel of my above discussion, the amount of compensation to which the claimant are entitled to is tabulated as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased	₹2400 per month
(ii)	50% of (i) above to be added as future prospects	(₹2400+ ₹1200)= (₹3600 per month)
(iii)	1/2 of (ii) deducted as personal expenses of the deceased	(₹3600-₹1800)= ₹1800 per month.
(iv)	Compensation after multiplier of 17 is applied	(₹1800X12X17)= ₹367200
(v)	For loss of love and affection and loss to the estate	₹50000
(vi)	Funeral and transportation expenses	₹10000
Total		₹4,27,200

10. The appeal has merits and is accepted. The award of the Tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹1,40,000/- to ₹4,27,200/- for the death of Bhupinder Singh. The above amount will carry interest @ 7.5% per annum from the date of filing of the petition till actual realisation. The amount of enhanced compensation shall be shared equally by the claimants. Respondent No.3-insurance company will deposit the share of claimants in their bank accounts or pay the same through demand drafts. In case of demise of any of above claimant(s), his/her share of compensation shall be disbursed to other surviving claimant. The claimants shall also be entitled

to costs of this appeal. The counsel fee is assessed ₹10,000/-.

(SURINDER GUPTA)
JUDGE

September 26, 2016.
Sachin M.

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No