IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.2581 of 2011.
Date of Decision: 10.02.2016.

Surender Singh and another ....Appellants.

VERSUS

National Insurance Company Limited and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Ravinder Malik, Advocate for the appellants.

Mr. D.P. Gupta, Advocate for respondent No.1.

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SNEH PRASHAR, J.

This appeal for enhancement of compensation was filed by appellants Surender Singh and another against an award dated 04.12.2010 passed by Motor Accident Claims Tribunal, Jhajjar (for short, "the tribunal") in MACT case No.116 of 2008 titled "Surender Singh and another vs. Paras Ram and others".

The facts that emerge from the record are as under:-

On 12.08.2008 deceased Vikas alongwith Azad Singh was going to Jhajjar from Rohtak by means of a motorcycle. When they reached near village Lakaria-Madana, their motorcycle was hit by a truck bearing registration No.HR-55A-4381 (hereinafter referred as to "the offending vehicle”). Due to the injuries sustained, Vikas died.

A petition claiming compensation under Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) was filed by the appellants against driver, owner and insurer of the offending vehicle. The petition was allowed by the Tribunal and an amount of Rs.4,40,000/- alongwith interest at the rate of 7.5% per annum from the date of filing of the petition till realization of the amount was awarded to the appellants as compensation.

Feeling unsatisfied with the award dated 04.12.2010, the appellants preferred the instant appeal.

The submissions made by Mr. Ravinder Malik, learned counsel representing the appellants and Mr. D.P. Gupta, learned counsel representing respondent No.1 have been heard and record perused.

Learned counsel for the appellants-claimants argued that the income of the deceased was wrongly assessed as no addition was made for computing future prospects and the amount awarded under the head of funeral expenses was on a very low note. Also, no amount was awarded for loss of love and affection to the claimants.

Perusal of the record reveals that PW1 Navinder Kumar deposed that deceased Vikas was being paid salary of Rs.15,000/- per month but he failed to produce any substantive evidence to support his version and thus the tribunal rightly rejected the testimony of the said witness and assessed the income of deceased Vikas at Rs.5000/- per month. The age of the deceased was 22 years and the multiplier of 18 should have been applied by the tribunal instead of 14 as per the law laid down in ***Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(2) W.L.N. (SC) 113.*** Since deceased Vikas was a bachelor he is assumed to be spending 50% of his income on his personal and living expenses as held in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77.*** Accordingly, the effective contribution of Vikas towards the appellants was rightly assessed at Rs.2500/- per month. Perusal of the award shows that no amount was added to the income of the deceased for computing future prospects. In view of law laid down in ***Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170*** the age of the deceased being 22 years, the claimants are entitled to addition in the income of the deceased by 50%. Accordingly, the compensation payable to the appellants-claimants is calculated as under:-

1.	Monthly income (in Rupees)		Rs.5000/-
2.	Actual age of the deceased		22 years
3.	Increase in future income as per Rajesh and others' case (supra)		Rs.2500/-
4.	Annual dependency		1/2 of Rs.7500 x 12 = Rs.45000
5.	Multiplier		18
6.	Total		Rs.8,10,000/-

In addition to the amount of Rs.8,10,000/- calculated towards dependency, the amount of Rs.20,000/- awarded under the funeral expenses is enhanced to Rs.25,000/-. A further amount of Rs.1 lac is awarded to appellant No.1 (mother of the deceased) for loss of love and affection. In the above premise, the appellants are held entitled to compensation of

Rs.9,35,000/- as indicated above.

Accordingly, the appeal filed by appellants-claimants Surender Singh and another is partly allowed and the award dated 04.12.2010 passed by the tribunal is modified. The appellants claimants are held entitled to enhanced compensation of Rs.4,95,000/- in addition to the amount of Rs.4,40,000/- awarded by the tribunal. The enhanced amount of compensation shall be deposited by respondent No.1-insurance company 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 6% per annum.

(SNEH PRASHAR)
JUDGE

10.02.2016.
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