IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.1439 of 2012 (O&M).
Date of Decision: 02.06.2016.

Harpreet Kaur and another ....Appellants.

VERSUS

Hardeep Singh and others ....Respondents.

***

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Ms. Richa Mittal, Advocate for
Mr. Inderjeet Sharma, Advocate for the appellants.

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

***

SNEH PRASHAR, J.

CM-5948-CII-2012

There being delay of 19 days in refiling the appeal, an application under Section 151 of the Code of Civil Procedure for condonation of delay was filed by the appellants.

Considering the averments made in the application, the delay in refiling the appeal is condoned and the application is disposed of.

FAO-1439-2012

By way of this appeal, appellants-Harpreet Kaur and another seek enhancement of compensation awarded to them by Motor Accident Claims Tribunal, SAS Nagar, Mohali (for short, “the Tribunal”) vide award dated 27.08.2011 passed in MACT Case No.96 of 21.04.2009 on account of death of Gurmeet Singh (husband of appellant No.1 and father of appellant No.2) in a vehicular accident.

The submissions made by Ms. Richa Mittal, learned counsel for the appellants and Mr. D.P. Gupta, learned counsel for respondent No.3 have been heard and record perused.

Learned counsel for the appellants-claimants contends that at the time of accident the age of the deceased was 34 years. As is proved on the record, the carry home salary of the deceased was Rs.26,500/- including Rs.3500/- as remote area allowance, but learned Tribunal wrongly deducted the said amount of Rs.3500/- from the income. Considering the age of the deceased, the appropriate multiplier to the amount of loss of dependency of the appellants was '16' whereas learned Tribunal applied the multiplier of '15'. No amount was added by learned Tribunal to the income of the deceased computing future prospects. The deduction of 1/3rd made by learned Tribunal from the income of the deceased towards his personal and living expenses is also wrong. Learned Tribunal further erred in deducting Rs.3 lacs granted to the appellants by the government as ex-gratia amount while computing compensation. Moreso, the income tax has been wrongly deducted from the annual dependency of the appellants. Also, nothing was awarded to the appellants on account of loss of love and affection.

Indeed, deceased Gurmeet Singh was working as System Admnistror in Akal College of Engineering & Technology, Baru Sahib, District Sirmaur (HP). PW4 Mohit Sharma, HR Executive from the said College, has proved on record the salary certificate Ex.P9 of the deceased. As per the said certificate, the total salary of the deceased was Rs.26,500/- which includes Rs.3500/- as remote area allowance. Learned Tribunal wrongly deducted the said allowance of Rs.3500/- and took the monthly income of the deceased as Rs.23,000/- which certainly needs correction. The income of the deceased is assessed as Rs.26,500/- per month i.e. Rs.3,18,000/- per annum.

Perusal of the award shows that no amount was added to the income of the deceased computing future prospects. Following the ratio of ***Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170*** since the deceased was 34 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. However, for computing future prospects the amount of Rs.3500/- will have to be deducted as it was payable only when the deceased would work in remote area. As such, adding 50% to the actual income of the deceased towards future prospects, the amount comes to Rs.4,56,000/-. According to the slab given in the financial year 2008-2009, no tax was to be paid by a man of general category upto the income of Rs.1,45,000/- and savings upto Rs.1,00,000/- were permissible. Thus, deducting the amount of Rs.2,45,000/- towards exemption limit and savings, the taxable income of the deceased comes to Rs.2,11,000/-. Deducting Rs.21,000/- towards income tax, according to the slab given in the relevant financial year, the amount comes to Rs.4,35,000/-.

The deceased is survived by widow-Harpreet Kaur, daughter-Mandeep Kaur and mother-Sukhwinder Kaur. 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 34 years, the multiplier of '16' should have been applied by learned Tribunal instead of '15'. Therefore, deducting 1/3rd and applying the multiplier of '16', the amount comes to Rs.46,40,000/- (to make it round figure).

In addition to the amount of Rs.46,40,000/- calculated towards dependency, the amount of Rs.20,000/- awarded under the head of funeral expenses is enhanced to Rs.25,000/-. A further amount of Rs.50,000/- to appellant-claimant No.1 and Rs.50,000/- to proforma respondent No.4 is allowed for loss of love and affection. Further, the amount of Rs.3 lacs received by appellant-Harpreet Kaur as Ex-gratia grant is a financial assistance by the State and learned Tribunal erred in deducting the said amount while calculating compensation. Accordingly, the compensation payable to the appellants-claimants and respondent No.4 comes to Rs.47,65,000/-.

Accordingly, the appeal filed by the appellants-claimants is partly allowed and the award dated 27.08.2011 passed by learned Tribunal is modified. The enhanced compensation of Rs.24,79,500/- shall be paid to the appellants and respondent No.4 within 45 days from the date of receipt of certified copy of this judgment failing which they 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 and respondent No.4 in terms of shares/ conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

02.06.2016.
jitender