IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.1751 of 2012 (O&M)
Date of Decision: January 15, 2016.

Balwan Singh and another

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

VERSUS

Madan Lal and others

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

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Saurabh Dalal, Advocate
for the appellant (s).

Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate
for respondent No.3.

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SURINDER GUPTA, J.

This is appeal by appellants-claimants against the award dated 31.01.2011 passed by Motor Accident Claims Tribunal, Sonipat (later referred to as the Tribunal) allowing compensation of ₹9,75,000/- for the death of Mukesh Kumar (later referred to as the deceased), son of claimants in a motor accident with a Haryana Roadways Bus bearing registration No.HR-46-B-4906 (later referred to as the offending vehicle).

2. The case of the claimants, in brief, is that on 19.08.2009 at about 11.00 A.M., the deceased and his cousin Sunil were going on motorcycle bearing registration No.HR-60-A-8618 from village Atta to village Khahni. Sunil was driving the motorcycle and the deceased was pillion rider. When they reached near Reliance Petrol Pump at Gohana-Rohtak Road, the offending vehicle came from Rohtak side. It was being driven at a very high

speed, rashly, negligently and hit the motorcycle of deceased, who fell down and was run over by offending vehicle resulting in his death at the spot. The driver of the bus fled away from the spot with his bus. Matter was reported to the police vide FIR No.336 of 2009 registered at Police Station Gohana City on the statement of Sunil Kumar.

3. Respondent No.1 contested the claim petition and denied the accident in question, alleging that the case qua him was registered due to collusion of the claimants with the local police.

4. Respondent No.2 in his written statement, though denied the accident but admitted that on the day of accident, the offending vehicle was enroute from Rohtak to Chandigarh under the command of respondent No.1 Madan Lal, driver and it started its journey from Rohtak at about 10.00 A.M. It is also averred that the offending vehicle was insured with respondent No.3.

5. Respondent No.3 in its written statement has denied the accident allegedly caused by respondent No.1 inter-alia pleaded that a false case was registered against respondent No.1.

6. The Tribunal, on appraisal of evidence on record, concluded that the accident had taken place due to rash and negligent driving of the offending vehicle by its driver Madan Lal-respondent No.1. The Tribunal assessed income of the deceased to be ₹7,500/- per month and after applying multiplier of 16, keeping view age of the deceased as 31 years, total amount of dependency was calculated as ₹9,60,000/-. On adding an amount of ₹10,000/- towards misc. expenses like funeral and transportation expenses and a sum of ₹5,000/- towards mental shock, agony and loss of love and

affection, awarded total amount of compensation as ₹9,75,000/-.

7. Learned counsel for the appellants-claimants has argued that the Tribunal did not allow any compensation towards future prospects of the deceased. Keeping in view the age of the deceased to be 31 years, 50% should be added in his income towards future prospects. The Tribunal has not allowed any compensation towards loss of estate and has allowed only ₹10,000/- lump sum towards funeral expenses, transportation charges etc. which also require upward revision.

8. Learned counsel for respondent No.3-insurance company has argued that the Tribunal has to award just and fair compensation for the death in a motor accident. In this case, the Tribunal has rightly calculated the income of the deceased and applied multiplier of 16 while calculating the amount of compensation, which call for no interference. Since the deceased was a guest lecturer and was not in permanent employment, as such, the Tribunal has rightly not allowed compensation towards future prospects.

9. In case of ***Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447,*** Hon'ble Apex Court followed the view taken in case of ***Rajesh and others Vs. Rajbir and others (2013)9 SCC 54,*** regarding the addition in the income of the deceased towards future prospects, even if the deceased was not in permanent employment.

10. The concept of future prospects envisages chances or opportunities for success and further progress in life, which is a normal course of event for every human being involved in any avocation. Even if, keeping in view his ability, capacity etc., one may not be in a position to rise in life, there is another aspect that justifies the grant of addition in the

income of the deceased, which is the '*inflationary trend*' in which we all are living. For example, I take instance of a tailor. It is a matter of common knowledge that stitching charges have increased manifold during last two decades due to increase in expenses of material/labour charges/margin of persons in this profession, with consequent increase in their income. This is because of high increase in the cost of living. The dependants of a deceased in accident have also to face the same situation. The amount of compensation is required to be just and reasonable keeping the inflationary trend in view, where the prices of the basic amenities of life are likely to increase further. The deceased was an educated person, posted as a lecturer and in due couse would have risen in his career.

11. As per the observations in case of ***Smt. Neeta and others Vs. The Divisional Manager, MSRTC, Kolhapur 2015(1) RCR (Civil) 625 (SC) and Vimal Kanwar and others Vs. Kishore Dan and others 2013(7) SCC 476,*** the claimants are also entitled to ₹1 lac for loss of estate and ₹25,000/- towards funeral expenses.

11. In view of my discussion above, the amount of compensation to which the claimants are entitled to, is tabulated as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased (as assessed by the Tribunal)	₹7500 per month
(ii)	50% of (i) above to be added as future prospects	(₹7500+ ₹3750)= (₹11250 per month)
(iii)	1/2 of (ii) deducted as personal expenses of the deceased	(₹11250-₹5625)= ₹5625 per month
(iv)	Compensation after multiplier of 16 as applied by the Tribunal	(₹5625X12X16)= ₹1080000
(v)	For loss of the estate	₹100000
(vi)	Funeral expenses	₹25000
Total		₹12,05,000

12. The appeal is accepted. The award of the Tribunal is modified and the compensation allowed to the appellants is enhanced from ₹9,75,000/- to ₹12,05,000/- for death of their son Mukesh Kumar. The enhanced amount of compensation will carry interest 7.5% per annum from the date of filing of the petition till actual realization. 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. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed at ₹20,000/-.

(SURINDER GUPTA)
JUDGE

January 15, 2016.
Sachin M.