IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.5783 of 2012 (O&M).
Date of Decision: 07.04.2016.

Isha and others ....Appellants.

VERSUS

Hidayat Ali and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Ashish Gupta, Advocate for the appellants.

Service of respondent No.1 dispensed with.

Mr. Pardeep Goyal, Advocate for respondent No.3.

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SNEH PRASHAR, J.

Appellants-Isha and others filed this appeal seeking enhancement of compensation awarded to them vide award dated 30.07.2012 passed by Motor Accident Claims Tribunal, Nuh (for short, "the Tribunal") in Claim Petition No.149 of 19.01.2011/01.06.2011 on account of death of Hamid Hussain (son of appellants No.1 and 2 and brothers of appellants No.3 to 6) in a vehicular accident.

A petition invoking the provisions of Section 163-A of the Motor Vehicles Act, 1988 (for short, "the Act of 1988") was filed by appellants-Isha and others claiming compensation on account of death of

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Hamid Hussain in a motor accident caused by Hidyat Ali-respondent No.1 while driving motorcycle bearing registration No.HR-27B-2272 (hereinafter referred to as the "offending motorcycle") rashly, negligently and in a high speed. The driver, owner and insurer were impleaded as respondents No.1 to 3. They contested the petition raising various objections but after trial learned Tribunal partly allowed the petition and awarded a sum of Rs.2,80,800/- as compensation to the claimants.

Feeling dissatisfied with the award, the appellants preferred the instant appeal.

The submissions made by Mr. Ashish Gupta, learned counsel for the appellants and Mr. Pardeep Goyal, learned counsel for respondent No.3 have been heard and record perused.

Learned counsel for the appellants argued that the deceased used to work as an electrician and was earning Rs.3300/- per month but learned Tribunal wrongly assessed his income as Rs.2600/- per month. The deceased being 19 years old, the multiplier of '18' chosen by learned Tribunal was appropriate, but no amount was allowed for funeral expenses and loss of estate. The rate of interest allowed by learned Tribunal is also on the lower side.

No substantive or reliable evidence was led by the appellants-claimants to prove the income of the deceased but the notional income assessed by learned Tribunal appears to be on the lower side. Considering his age and other factors, the income of the deceased is assessed as Rs.3000/- per month. The deceased being 19 years old when he died in the

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accident, the appropriate multiplier will be '18' as per the Second Schedule of the Act of 1988. Applying the said multiplier, the amount comes to Rs.6,48,000/- (36,000 x 18). As per the note given at the bottom of the Second Schedule, 1/3rd is to be deducted towards the expenses which the victim would have incurred in maintaining himself had he been alive. After deduction the amount comes to Rs.4,32,000/-. In addition to the above, the claimants will be entitled to Rs.2500/- on account of loss of estate and Rs.2000/- towards funeral expenses and not Rs.5,000/- each as awarded by learned Tribunal under the said heads. The rate of interest allowed by learned Tribunal shall remain the same.

Accordingly, the appeal filed by the appellants is partly allowed and the award dated 30.07.2012 passed by learned Tribunal is modified. The enhanced compensation of Rs.1,55,700/- shall be deposited by respondent No.3-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 7.5% per annum from the date of filing the appeal till realization. The amount of compensation will be disbursed to the appellants in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

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