IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-6682-2012 (O&M)

Date of decision: 13.1.2016

Kashif Khan and ors.

...Appellants

Versus

Sukhdev Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. S. K. Biriwal, Advocate,
for the appellants.

Mr. Chandan S. Rana, Advocate
for respondent Nos.1 and 2.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.3-Insurance Company.

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JITENDRA CHAUHAN, J.

The present appeal has been filed against the impugned award dated 31.08.2012, passed by the learned Motor Accident Claims Tribunal, Ludhiana, ('the Tribunal', for brevity).

It is contended that the deceased Nazira Begum was 31 years of age at the time of the accident, however, the Tribunal has wrongly applied the multiplier of 13. The deceased was engaged in tailoring and had been earning Rs.9,000/- per month. However, the learned Tribunal, without any basis, assessed her income at Rs.3,000/- per month, which deserves to be enhanced. It is further contended that the compensation awarded by the learned Tribunal under the conventional heads is on the lower side and deserves to be enhanced.

On the other hand, the learned counsel for the Insurance Company has vehemently opposed the present appeal.

I have heard the learned counsel for the appellants and perused the record.

The deceased was 31 years of age at the time of her death in the accident. The claimants have asserted that she being a tailor had been earning Rs.9,000/- per month. However, the learned Tribunal, after considering the value of her services to her family has assessed her income at Rs.3,000/- per month, which being less than the minimum wages, is inadequate. Therefore, this Court feels that the ends of justice would be adequately met, in case, the income of the deceased is assessed at Rs.5,000/- per month. It is ordered accordingly. The learned Tribunal has not applied any deduction in the present case, the deceased being a housewife. The deceased was 31 years of age at the time of her death in the accident, therefore, the learned Tribunal ought to have applied multiplier keeping in view the law laid down in ***Smt.***

Sarla Verma Vs. DTC (2009) 6 SCC 121. Accordingly the multiplier of 13 is enhanced to 16.

In this way, the amount of compensation under the head 'loss of dependency' would come to Rs.5,000/- X 12 X 16 = Rs.9,60,000/-, as against the amount of Rs.4,68,000/-, assessed by the learned Tribunal, under this head.

Furthermore, the amount of Rs.2,000/-, awarded towards the funeral expenses is enhanced to Rs.25,000/-. It is further noticed that the learned Tribunal has not awarded any compensation for loss of consortium. Accordingly, an amount of Rs.1,00,000/- is granted to the claimant-husband for loss of consortium. The claimant-minor children of the deceased shall also be entitled to an amount of Rs.1,00,000/-, for loss of love, care and guidance, in equal shares.

In view of the above, the claimant-appellants are held entitled to enhanced compensation of Rs.7,15,000/- [Rs.4,92,000/- (enhancement towards loss of dependency) + Rs.23,000/- (enhancement towards funeral expenses) + Rs.1,00,000/- (towards loss of consortium, payable to the husband of the deceased only) + Rs.1,00,000/- (towards loss of love and affection, payable to the minor children of the deceased in equal shares)], as indicated above, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 60 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to interest as indicated in the award i.e. 7.5% per annum, from the date of filing the present appeal, till its realization.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

13.01.2016 **(JITENDRA CHAUHAN)**
ashok **JUDGE**