**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

FAO-1074-2014
Date of decision: 28.3.2016

Sunita and others
...Appellants

Versus

Vijay Singh and others
...Respondents

**CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR**

Present: Mr.Abhimanyu Singh, Advocate for the appellants

Mrs.Vandana Malhotra, Advocate
for respondent No.4-Insurance Company

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**SNEH PRASHAR, J.**

By filing the present appeal, the claimants- appellants have sought enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Nuh at Mewat (for short 'the Tribunal') vide award dated 25.10.2013 on account of death of Chetan, husband of appellant No.1 and father of appellants No.2 and 3 and son of appellant No.4, in a motor vehicular accident.

The submissions made by Mr.Abhimanyu Singh, Advocate representing the claimants-appellants and Mrs.Vandana Malhotra, Advocate for respondent No.4- Insurance Company have been heard and record perused.

It is submitted on behalf of the appellants that from the statement of PW3 Rakesh Garg, who was the employer of deceased Chetan, it is proved that the deceased was working as a driver on his car since 15.3.2009 continuously and he used to pay him Rs. 9000/- per month as salary as well as Rs.100/- for daily diet. He proved the salary certificate Ex.P1, however, learned Tribunal taking him as unskilled labourer assessed his income as Rs.5000/- per month. Also no addition in income was made computing the future prospects. The amount awarded on account of loss of consortium and last rites is inadequate, whereas no amount has been allowed to the children on account of loss of love, care and guidance.

On perusal of the record, it emanates that neither any registration certificate proving PW3 Rakesh Garg, as owner of a car nor any record regarding deduction of Provident Fund, ESI etc. or any bank statement showing deposit of the salary amount was produced. In absence of any substantive evidence, learned Tribunal rightly assessed the income of the deceased as Rs.5000/- per month treating him to be as unskilled labourer.

The deceased was 28 years old at the time of his death. As no amount has been awarded towards future prospects, therefore, keeping in view the law laid down by Hon'ble Supreme Court in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, increase in income to the extent of 50% towards future prospects is allowed. Since, the deceased was 28 years old, the multiplier of 17 was rightly applied in view of **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**.

The claimants are the wife and two children i.e. one son and one daughter and father. However, father was not considered as dependent by learned Tribunal in view of law laid down in **Sarla Verma and others' case (supra)** and therefore 1/3rd deduction towards personal and living expenses of the deceased was rightly made. No amount has been allowed on account of loss of love, care and guidance to the children, therefore, in view of law laid down in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54,** a sum of Rs.One lac is allowed to both the children on that count and the amount awarded towards loss of consortium and last rites is also enhanced to Rs.One lac and Rs.25,000/- respectively.

Accordingly, the total compensation comes to Rs.12,45,000/- i.e. Rs.5000 (monthly income)+ 50% (future prospects ) -1/3rd (deduction on account of living and personal expenses of the deceased ) x 12 x 17 (multiplier) + Rs.2,25,000 (under the conventional heads including the amount already awarded). The enhanced amount i.e. Rs.5,30,000/- (12,45,000-7,15,000) shall be paid to the appellants within two months from the date of the receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of the filing of the appeal till its realisation.

In the above premises, the present appeal is partly allowed and the impugned award is modified as noticed above.

28.3.2016 **(SNEH PRASHAR)**
gsv **JUDGE**