IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.3072 of 2013.
Date of Decision: 20.05.2016.

Babli and others ....Appellants.

VERSUS

Suresh and another ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. H.S. Mehra, Advocate for the appellants.

Mr. M.B. Jain, Advocate for respondent No.2.

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SNEH PRASHAR, J.

By way of this appeal, appellants-Babli and others seek enhancement of compensation awarded by learned Motor Accident Claims Tribunal, Rohtak (for short, “the Tribunal”) vide award dated 21.01.2013 passed in MACT Case No.116 of 2011 on account of death of Rajpal @ Jeeta (husband of appellant No.1 and father of appellants No.2 to 4), in a vehicular accident.

The submissions made by Mr. H.S. Mehra, learned counsel for the appellants and Mr. M.B. Jain, learned counsel for respondent No.2 have been heard and record perused.

Learned counsel for the appellants-claimants contends that at the time of death the deceased was 36 years old. He was a painter by profession and was earning Rs.12,000/- per month, but learned Tribunal wrongly assessed his income as Rs.6000/- per month only and wrongly deducted 1/4th of the income of the deceased towards his personal and living expenses. The multiplier applied by learned Tribunal to the amount determined as loss of dependency of the appellants is also inappropriate. As held in ***Rajesh and others vs. Rajbir Singh and others, 2013(9) SCC 54,*** 50% notional increase should have been added to the actual income of the deceased computing future prospects but learned Tribunal failed to do so. The amount of Rs.10,000/- awarded towards loss of consortium and Rs.5000/- as funeral expenses is also on the lower side. No amount was awarded to the appellants for loss of love and affection.

On the other hand, learned counsel for respondent No.2-Insurance Company resisting the prayer of the appellants submitted that in view of the law laid down in ***New India Assurance Company Ltd. vs. Smt. Shanti Pathak and others 2007(3) RCR (Civil) 593*** no amount should be added towards future prospects when he was not in a permanent job. He further submitted that the appellants have adequately been compensated by learned Tribunal on all counts.

No substantive and reliable evidence was produced by the appellants to prove the occupation and income of the deceased. In absence of required evidence and considering the age and other factors, learned Tribunal rightly assessed the income of the deceased as Rs.6000/- per month and that needs no modification.

Following the law laid down in **Rajesh and others'** case (supra) on adding 50% notional increase on account of future prospects the income of the deceased would come to Rs.9000/- (6000 + 3000). There being four dependents, 1/4th of the income towards personal and living expenses of the deceased was rightly deducted and the deceased being 36 years aged at the time of accident, the multiplier of '15' applied by learned Tribunal is also appropriate. Accordingly, the compensation payable to the appellants-claimants is calculated as under:-

1.	Monthly income (in Rupees)		Rs.6000/-
2.	Actual age of the deceased		36 years
3.	Increase in future income as per Rajesh and others' case (supra)		Rs.3000/-
4.	Annual dependency		3/4 of Rs.9000 x 12=Rs.81,000/-
5.	Multiplier		15
6.	Total		Rs.12,15,000/-

In addition to the amount of Rs.12,15,000/- calculated towards dependency, the amount of Rs.10,000/- awarded for loss of consortium is enhanced to Rs.1,00,000/- and the amount of Rs.5000/- awarded under the head of funeral expenses is enhanced to Rs.25,000/-. A further amount of Rs.1,00,000/- is awarded to the appellants-claimants No.2 to 4 for loss of love and affection. The rate of interest allowed by learned Tribunal shall remain the same.

Accordingly, the appeal filed by the appellants-claimants is partly allowed and the award dated 21.01.2013 passed by learned Tribunal is modified. The enhanced compensation of Rs.6,15,000/- shall be paid to the appellants-claimants 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 this order till realization. The amount of compensation will be disbursed to the appellants-claimants in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

20.05.2016.
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