

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

FAO No.1743 of 2014.

Date of Decision: 28.03.2016.

Haro Bai and others

....Appellants.

VERSUS

Ram Kumar and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Chand Ram Olla, Advocate for the appellants.

Mr. Satyawar, Advocate for
Mr. R.N. Lohan, Advocate for respondent No.1.

Mr. Ramesh Kumar, Assistant Advocate General, Haryana
for respondents No.2 and 3.

Mr. Pardeep Kumar, Advocate for respondent No.4.

SNEH PRASHAR, J.

By way of this appeal, appellants-Haro Bai and others seek enhancement of compensation awarded to them by Motor Accident Claims Tribunal, Fatehabad (for short, "the Tribunal") vide the award dated 12.11.2013 passed in Petition No.62-MACT of 2013 on account of death of Jyoti Rani (daughter of appellants No.1 and 2 and sister of appellants No.3 to 5) who lost her life in a vehicular accident.

Precisely, the facts are that on 02.11.2012 appellant-claimant

No.2 Nihal Chand alongwith one Shyam Lal was waiting for his daughter at Baba Randhir Singh Chowk, Bhuna when bus bearing registration No.HR-39A-8577 (hereinafter referred to as the “offending bus) stopped there and while Jyoti Rani (since deceased) was alighting from the bus, driver-Ram Kumar (respondent No.1) without waiting for signal from the conductor started the bus, as a result of which Jyoti Rani fell down and was crushed under rear tyre of that bus. She received multiple serious injuries and was taken to CHC, Bhuna from where she was referred to Medical College and Hospital, Agroha and then to General Hospital, Hisar but she expired on the way.

A First Information Report No.138 dated 03.11.2012 under Sections 279 and 304-A of the Indian Penal Code in respect of the accident was registered against respondent No.1 Ram Kumar at Police Station Bhuna, District Fatehabad.

A petition claiming compensation to the tune of Rs.27,50,000/- lacs on account of death of Jyoti Rani during the accident, was filed by parents, sister and brothers of the deceased invoking the provisions of Section 166 of the Motor Vehicles Act, 1988 (for short, the Act of 1988”) against the driver, owner, controller and insurer of the offending bus (respondents No.1 to 4). The said respondents contested the petition by filing separate written statements. On the rival pleadings of the parties, issues were settled. Both the parties adduced evidence in discharge of the onus on them.

Considering the ocular and documentary evidence led by the

parties and the submissions made on their behalf, learned Tribunal observing that the deceased was an unmarried girl and assessing loss of her services to the appellants as Rs.2000/- per month, awarded lump sum amount of Rs.2.5 lacs to the appellants.

Feeling unsatisfied with the Award dated 12.11.2013 passed by learned Tribunal, the appellants preferred the instant appeal.

The submissions made by Mr. Cand Ram Olla, learned counsel for the appellants, Mr. Satyawan, learned counsel for respondent No.1, Mr. Ramesh Kumar, Assistant Advocate General, Haryana, for respondents No.2 &3 and Mr. Pardeep Kumar, learned counsel for respondent No.4 have been heard and record perused.

Learned counsel for the appellants contends that the deceased was a young girl aged 20 years. She was employed as a teacher in a private school and used to earn Rs.20,000/- per month. Learned Tribunal instead of adhering to the multiplier system for computation of compensation awarded a lump sum amount of Rs.2.5 lacs which is inadequate. Since there were five claimants, parents and three minor siblings, the deduction, if any, from the income of the deceased should not have been more than 1/4th. The income of the deceased should also be assessed not less than Rs.5000/- per month as in the year 2012 according to the letter No.IR-II/8273-397 dated 21.02.2012 issued by Haryana Government the minimum wages of a skilled labourer was Rs.5237.17 paise. Considering the age of the deceased 50% of the monthly income should have been added towards future prospects as laid down in **Rajesh and others vs. Rajbir and others, (2013) 9 SCC 54.**

The appellants were also entitled to compensation under the head of loss of love and affection; funeral expenses etc. To support his argument, learned counsel relied upon *Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments (R.A.J.) 459* and *Vimal Kanwar and others vs. Kishore Dan and others, 2013(2) R.C.R. (Civil) 945.*

The facts in hand are distinguishable from the facts of Munna Lal Jain and another and Vimal Kanwar and others' case (supra). However, it is not a contentious issue that Jyoti Rani daughter of appellants No.1 and 2 aged about 20 years died in the motor accident caused by respondent No.1-Ram Kumar due to his rash and negligent driving of the offending bus. Although learned Tribunal assessed the loss of services of the deceased to the appellants but instead of adopting the multiplier system for computing adequate compensation, erred by awarding a lump sum amount. PW1 Nihal Chand, father of Jyoti Rani stated in his affidavit Ex.PW1/A that his daughter was employed as NIT teacher in Adarsh Vidya Mandir which has since renamed as Aryavrat Playway School, Mochiwali and after duty hours she used to give tuition/ coaching at home to the students of high classes and from both sources she was earning Rs.15,000/- per month. However, except for his solitary oral statement no document could be produced by him either to prove educational qualifications of his daughter or the factum of employment-salary of the deceased. In fact, in his cross-examination, contrary to his own statement made in his affidavit, he expressed ignorance about the name of the school in which his daughter

was employed. Therefore, in absence of required evidence, learned Tribunal rightly assumed that the deceased was a household lady and her sudden demise had caused loss of services to the appellants. The deceased was neither a casual nor a skilled labourer, however, considering the fact that the deceased was the eldest daughter of appellants No.1 and 2 and being a household girl was assisting her parents in daily pursuits but at the same time being of marriageable age would have been married off by them in another 2 to 3 years, the loss of her services to the appellants is assessed as Rs.3000/- per month i.e. Rs.36,000/- per annum. In the said circumstances there can be no addition to the actual income of the deceased on account of future prospects. The siblings were not dependents of the deceased when their parents are living. Accordingly, 50% of the income has to be deducted towards personal and living expenses of the deceased. The age of the deceased being 20 years, '18' will be the appropriate multiplier. Accordingly, the compensation payable to the appellants-claimants comes to Rs.3,24,000/- (18000 x 18). In addition to that an amount of Rs.1,00,000/- is awarded to appellants No.1 and 2 (parents of the deceased) for loss of love and affection and a further amount of Rs.25,000/- is awarded to the appellants under the head of funeral expenses.

Accordingly, the appeal filed by the appellants-claimants is partly allowed and the award dated 12.11.2013 passed by learned Tribunal is modified. The enhanced compensation of Rs.1,99,000/- shall be deposited by the respondents 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

28.03.2016
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