IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.3955 of 2013.
Date of Decision: 03.05.2016.

Hawa Singh and another ....Appellants.

VERSUS

Satish Kumar and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Amit Khatkar, Advocate for the appellants.

Mr. Ajit Sihag, Advocate for respondents No.1 and 2.

Mr. M.B. Jain, Advocate for respondent No.3.

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SNEH PRASHAR, J.

By way of this appeal, appellants-Hawa Singh and another seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, Hisar (for short, "the Tribunal") vide award dated 17.04.2013 passed in Claim Petition No.48-MACT of 10.02.2012 on account of death of Sunil Kumar (son of the appellants), who lost his life in a vehicular accident on 04.01.2012.

The submissions made by Mr. Amit Khatkar, learned counsel for the appellants, Mr. Ajit Sihag, learned counsel for respondents No.1 and 2 and Mr. M.B. Jain, learned counsel for respondent No.3 have been heard and record perused.

Learned counsel for the appellants-claimants contends that at the time of accident the age of the deceased was 18 years. He was a student of class +2 and used to give tuition to primary students and also used to help his parents in the business of dairy farm and in this way he was earning Rs.10,000/- per month but learned Tribunal wrongly assessed his income as Rs.3000/- per month only. Learned Tribunal while calculating the loss of dependency wrongly deducted half of the income of the deceased towards his personal and living expenses whereas the deduction of 2/3rd should have been made. No amount was added by learned Tribunal to the income of the deceased computing future prospects and the multiplier applied by learned Tribunal is also inappropriate. The amount of Rs.20,000/- awarded as funeral expenses is on the lower side. Also no amount was awarded to the appellants for loss of love and affection etc.

No substantive and reliable evidence was produced by the appellants to prove that the deceased was a student or was working and had an income of Rs.10,000/- per month. In absence of required evidence and considering the year in which the accident took place and other relevant factors, learned Tribunal rightly assessed the income of the deceased as Rs.3000/- per month and that calls for no intervention.

Perusal of the award shows that no amount was added to the income of the deceased computing future prospects. Following the ratio of ***Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170*** since the age of the deceased was 18 years old when he died in the accident, there had to be an addition of 50% to the actual income of the deceased on account of future prospects, which learned Tribunal failed to allow. The deceased being a bachelor at the time of accident, the deduction of 50% from the income of the deceased towards his personal and living expenses is not required to be disturbed. Learned Tribunal applied the multiplier of '11' as per the age of parents of the deceased whereas the age of the deceased should have been the consideration for selecting the multiplier, as such '18' would be the appropriate multiplier. Accordingly, the compensation payable to the appellants-claimants is calculated as under:-

1.	Monthly income of the deceased (in Rupees)		Rs.3000/-
2.	Actual age of the deceased		18 years
3.	Increase in future income as per Rajesh and others' case (supra)		Rs.1500/-
4.	Annual dependency		1/2 of Rs.4500 x 12 = Rs.27,000/-
5.	Multiplier		18
6.	Total		Rs.4,86,000/-

In addition to the amount of Rs.4,86,000/- calculated towards dependency, the amount of Rs.20,000/- awarded under the head of funeral expenses is enhanced to Rs.25,000/-. A further amount of Rs.50,000/- is awarded to the appellant-claimant No.2 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 17.04.2013 passed by learned Tribunal is modified. The enhanced compensation of Rs.3,43,000/- shall be paid to the appellants 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

03.05.2016.
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