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

**FAO No.4085 of 2013(O&M)**
**Date of Decision-19.10.2016**

Bhullan Devi ... Appellant

Versus

Mohinder Singh and others ... Respondents

**CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. D.S. Nain, Advocate for the appellant.

Mr. Rose Gupta, Advocate for respondents No.1 to 3.

Mr. R.K. Bashamboo, Advocate
for respondent No.4-Insruance Company.

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***RAJ MOHAN SINGH, J.***

***CM No.16487-CII of 2013***

For the reasons mentioned in the application, delay of 17 days in filing the appeal is condoned.

Application stands disposed of.

***FAO No.4085 of 2013***

[1]. This is an appeal filed by the claimant for enhancement of compensation granted by the Motor Accident Claims Tribunal, Kaithal (for short 'Tribunal').

[2]. Claimant filed a claim petition under Section 166 of Motor Vehicles Act, 1988 for seeking compensation to the tune of Rs.10,00,000/- on account of death of her husband.

[3]. The accident took place on 15.03.2011 at about 9 p.m when Sheo Chand was going towards his house on his Moped after closing the shop. When he reached ahead from Chandana Gate near Ram Leela ground, offending vehicle came from front side in a rash and negligent manner and hit against the Moped of the deceased on front side by coming on wrong side of the road. The driver side front wheel of the tanker passed over the body of Sheo Chand and he died at the spot.

[4]. Tribunal while deciding issue No.1 held that the accident in question took place on account of rash and negligent driving of driver of the offending vehicle. Claimant asserted that Sheo Chand was 60 years of age at the time of death and was running a garment shop. The deceased was earning Rs.15,000/- per month. An amount of Rs.50,000/- was spent on his last rites. No record in respect of earning of the deceased to the tune of Rs.15,000/- per month was adduced. Deceased was not maintaining the account of his shop. The claimant-Bhullan Devi and witness PW 2-Raj Kumar were cross examined and the factum of deceased being non income tax payee came to fore. The claimant could not prove the factum of monthly income of the deceased to be Rs.15,000/-. Tribunal on the basis of minimum wages assessed the income of the deceased to be Rs.4000/- per month i.e. Rs.48,000/- per year (4000 X 12). Deduction to the tune of 1/3rd was applied in view of ratio laid down in ***Smt. Sarla Verma Vs. Delhi Transport Corporation 2009 (3) RCR (Civil) 77***.

Therefore, an amount of Rs.32,000/- per annum was calculated to be dependency. Deceased Sheo Chand was 60 years of age, therefore a multiplier of 9 was applied, in view of ratio laid down in ***Smt. Sarla Verma's case (supra)***. In this way, an amount of Rs.2,88,000/- (32,000 X 9) came to be calculated. An amount of Rs.10,000/- was assessed towards loss of consortium, loss of estate and funeral expenses, In this way, total amount of compensation came to be calculated as Rs.2,98,000/-. Respondent No.4 was liable to pay the amount of compensation along with interest @ 9 % per annum from the date of filing of claim petition till final realization of amount.

[5]. I have considered the submissions made by learned counsel for the parties.

[6]. So far as assessment towards monthly income of the deceased is concerned, the same can be found to be Rs.4000/- per month in the absence of any evidence on record to show that the deceased on account of running a garment shop was earning Rs.15,000/- per month. Dependency based on income of the deceased is correctly assessed to be Rs.32,000/- per annum, after deducting 1/3rd amount towards self expenses. Keeping in view the age of deceased i.e 60 years, multiplier of 9 as per ratio of ***Smt. Sarla Verma's case (supra)*** was correctly applied and amount of compensation to the tune of Rs.2,88,000/- was correctly assessed. In view of ***Rajesh and others Vs. Rajbir Singh and others,***

***__2013(3) RCR (Civil) 170__*** and keeping in view the age of the deceased enhancement towards loss of love and affection, loss of consortium and funeral expenses are to be added towards conventional heads. In view of ratio laid down in ***__Rajesh and others Vs. Rajbir Singh and others case (supra)__***, an amount of Rs.1,00,000/- is awarded towards loss of love and affection, an amount of Rs.1,00,000/- is awarded towards loss of consortium, an amount of Rs.25,000/- is awarded towards loss of estate and an amount of Rs.25,000/- is awarded towards funeral expenses. In this way, the amount, under these aforesaid heads would come out to be Rs.2,50,000/-. Therefore, total amount of compensation would come out to be Rs.5,38,000/- (2,88,000 + 2,50,000).

[7]. In view of above, the amount of compensation is worked out as under:-

| Sr. No. | Heads | Amount awarded by the Tribunal | Amount assessed in appeal | Difference |
|---|---|---|---|---|
| 1 | Monthly income | 4000/- | 4000/- | |
| 2 | Annual dependency | 32,000/- (4000 X 12 =48,000 and after deducting 1/3rd from the said amount i.e. 48,000) | 32,000/- (4000 X 12 =48,000 and after deducting 1/3rd from the said amount i.e. 48,000) | |
| 3 | Compensation after multiplier | 32,000 X 9 =2,88,000/- | 32,000 X 9 =2,88,000/- | Nil |
| 4 | Loss of consortium, loss of estate and funeral | 10,000/- | 1,00,000 + 25,000 + 25,000 = 1,50,000/- | 1,40,000/- |

| | | | | |
|---|---|---|---|---|
| | expenses | | | |
| 5 | Love and affection | Nil | 1,00,000/- | 1,00,000/- |
| 6 | Total compensation | 2,98,000/- | 5,38,000/- | 2,40,000/- |

[8]. The enhanced amount i.e. 2,40,000/- shall carry interest @ 9 % per annum from the date of filing of claim petition till final realization of the amount.

[9]. With the aforesaid modification, the present appeal stands disposed of.

**(RAJ MOHAN SINGH)**
**JUDGE**

19.10.2016
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**Whether reasoned/speaking Yes/No**

**Whether reportable Yes/No**