IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.5239 of 2013.
Date of Decision: 06.05.2016.

Rajesh Devi and others ....Appellants.

VERSUS

Ranbir Singh and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Surinder Dagar, Advocate for the appellants.

Respondents No.1, 2, 5 and 7 were proceeded against exparte vide order dated 15.05.2015.

Mr. Subhash Goyal, Advocate for respondent No.3.

Respondents No.6 and 8 were proceeded against exparte vide order dated 29.01.2015.

Mr. Munish Kumar Garg, Advocate for respondents No.4 and 9.

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SNEH PRASHAR, J.

By way of this appeal, appellants-Rajesh Devi and others seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, Hisar (for short, “the Tribunal”) vide award dated 05.10.2012 passed in MACT Case No.79 of 2011 on account of death of Rohtash (husband of appellant No.1, father of appellants No.2 to 4 and son of appellant No.5), who lost his life in a vehicular accident.

The submissions made by Mr. Surinder Dagar, learned counsel for the appellants, Mr. Subhash Goyal, learned counsel for respondent No.3 and Mr. Munish Kumar Garg, learned counsel for respondents No.4 and 9 have been heard and record perused.

Learned counsel for the appellants-claimants contends that the deceased was a driver by profession and used to earn Rs.8000/- per month, but learned Tribunal wrongly assessed his income as Rs.4600/- per month only. No amount was added by learned Tribunal to the income of the deceased computing future prospects. The deduction of 1/4th towards personal and living expenses of the deceased and the multiplier of '14' applied by learned Tribunal is not appropriate. The amount awarded towards funeral expenses, transportation and consortium is also on the lower side. No amount was awarded to the appellants for loss of love and affection.

No substantive and reliable evidence was produced by the appellants to prove the occupation and income of the deceased. In absence of required evidence, considering the year in which the accident took place and other relevant factors, learned Tribunal rightly presumed the deceased to be an unskilled labourer and assessed his income as Rs.4600/- 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 45 years when he died in the accident, there had to be an addition of 30% to the actual income of the deceased on account of future prospects, which learned Tribunal failed to allow. The deceased is survived by widow-Rajesh Devi, sons-Anil Kumar and Sunil Kumar, daughter-Priyanka and mother-Sukhdei. The dependents of the deceased being five in number, the deduction of 1/4th from the income of the deceased towards his personal and living expenses is not required to be disturbed. The age of the deceased being 45 years at the time of accident, the multiplier of '14' applied by learned Tribunal is appropriate. Accordingly, the compensation payable to the appellants-claimants towards loss of dependency is calculated as under:-

1.	Monthly income of the deceased (in Rupees)		Rs.4600/-
2.	Actual age of the deceased		45 years
3.	Increase in future income as per Rajesh and others' case (supra)		Rs.1380/-
4.	Annual dependency		3/4 of Rs.5980 x 12 = Rs.53,820/-
5.	Multiplier		14
6.	Total		Rs.7,53,480/-

In addition to the amount of Rs.7,53,480/- calculated towards dependency, the amount of Rs.10,000/- awarded under the head of funeral/ transportation expenses is enhanced to Rs.25,000/- and the amount of Rs.10,000/- awarded to appellant-claimant No.1 on account of loss of consortium is enhanced to Rs.1,00,000/-. A further amount of Rs.1,00,000/- to appellants-claimants No.2 to 4 is awarded for loss of love and affection. The mother of the deceased is stated to have already expired.

Accordingly, the appeal filed by the appellants-claimants is partly allowed and the award dated 05.10.2012 passed by learned Tribunal is modified. The enhanced compensation of Rs.3,78,880/- shall be paid to the appellants within 45 days from the date of receipt of certified copy of this judgment failing which they 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 in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

06.05.2016.
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