IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.5445 of 2014.
Date of Decision: 11.03.2016.

Malti Khanna and others ....Appellants.

VERSUS

Surendra Singh and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. B.S. Jaswal, Advocate for the appellants.

Mr. D.P. Gupta, Advocate for respondent No.3.

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SNEH PRASHAR, J.

By way of this appeal, appellants-Malti Khanna and others seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, Amritsar (for short, "the Tribunal") vide the award dated 26.07.2013 passed in MACT Case No.20709 of 2012 on account of death of Vishal Khanna son of appellants No.1 and 3 and brother of appellant No.2, who died in a vehicular accident.

Precisely, the facts are that on 11.09.2012 the motorcycle No.PB-02-AR-8651 being driven by Vishal Khanna (since deceased), with whom Harwinder Singh was travelling as pillion rider was hit by a bus bearing registration No.RJ-18-PA-2237 (hereinafter referred to as "the offending bus") because of its rash and negligent driving by driver

Mahendra (respondent No.2). As a result of accident, both Vishal Khanna and Harwinder Singh were crushed by the bus and due to the multiple serious injuries sustained by them, they died at the spot. The accident was witnessed by Palwinder Singh and Sukhdev Singh.

A First Information Report No.79 dated 11.09.2012 under Sections 279, 304-A and 427 of the Indian Penal Code in respect of the accident was registered against respondent No.2 at Police Station Tarsika, Amritsar on the statement of Palwinder Singh.

The claimants-appellants filed a claim petition invoking the provisions of Section 166 of the Motor Vehicles Act, 1988 alleging that the accident occurred entirely due to rash and negligent driving of the offending bus by respondent No.2-Mahendra.

The claim petition was contested by the respondents. On the basis of the pleadings of the parties, issues were settled. Both the parties adduced evidence to discharge the onus of the issues on them. Considering the evidence available on record and the submissions made on behalf of the parties, the Tribunal allowed the claim petition and the appellants were held entitled to recover compensation to the tune of Rs.8,87,000/- from respondent No.3-insurance company alongwith interest at the rate of 6% per annum from the date of filing the petition till realization.

Feeling unsatisfied with the award dated 26.07.2013, the claimants-appellants preferred the instant appeal.

The submissions made by Mr. B.S. Jaswal, learned counsel for the appellant and Mr. D.P. Gupta, learned counsel for respondent No.3-

insurance company have been heard.

Learned counsel for appellants argued that the education certificates of the deceased (Ex.P3 and Ex.P4) proved that he was a graduate in Commerce. His mother PW2 Malti Khanna testified that he was engaged in two occupations i.e. insurance business and property dealing and was earning Rs.20,000/- per month. However, learned Tribunal assuming the deceased to be a skilled labourer wrongly assessed his income as Rs.283/- per day. Also, no amount was added to the income computing future prospects of the deceased.

Learned counsel further urged that the amount of Rs.10,000/- allowed under the head of funeral expenses; Rs.5,000/- awarded for loss of love and affection; and Rs.5,000/- for loss of estate were extremely low.

Except for bald ocular testimony of PW2 Malti Khanna, mother of the deceased, no document, worth in its name, was tendered in evidence by the claimants to prove that the deceased was engaged in the business of insurance or was a property dealer. In absence of any substantive evidence with regard to occupation and income of the deceased, learned Tribunal rightly assessed his income as Rs.8500/- per month taking him as a skilled labourer. The said finding calls for no intervention.

Perusal of the award shows that no amount was added to the income for computing future prospects. Following the ratio of ***Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170*** since the deceased was a young unmarried boy, 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. Accordingly, the amount comes to Rs.12,750/- (Rs.8,500/- monthly income + Rs.4,250/- addition towards future prospects). Learned Tribunal rightly deducted 50% of the income of the deceased towards his personal and living expenses. After deduction the annual dependency of the appellants comes to Rs.76,500/- (Rs.6,375 x 12). Learned Tribunal applied the multiplier of '17' whereas the age of deceased was 31 years and the multiplier of '16' should have been appropriate. Accordingly, the compensation payable to the appellants is calculated as under:-

1.	Monthly income of the deceased (in Rupees)		Rs.8500/-
2.	Actual age of the deceased		31 years
3.	Increase in future income as per Rajesh and others case (supra)		Rs.4250/-
4.	Annual dependency		1/2 of Rs.12,750 x 12 = Rs.76,500/-
5.	Multiplier		16
6.	Total		Rs.12,24,000/-

In addition to the amount of Rs.12,24,000/- calculated towards dependency, the amount of Rs.10,000/- awarded under the head of funeral expenses is enhanced to Rs.25,000/- and the amount of Rs.5000/- awarded under loss of love and affection is enhanced to Rs.50,000/-. The amount of Rs.5,000/- awarded towards loss of estate is enhanced to Rs.10,000/-.

Accordingly, the appeal filed by appellants Malti Khanna and others is partly allowed and the award dated 26.07.2013 passed by learned Tribunal is modified. Appellants are held entitled to enhanced compensation of Rs.4,22,000/- in addition to the amount of Rs.8,87,000/-

already awarded by learned Tribunal. The enhanced amount of compensation shall be deposited by respondent No.3-insurance company within 45 days from the date of receipt of certified copy of this judgment failing which the appellants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing the appeal 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

11.03.2016.
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