IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.5590 of 2014.
Date of Decision: 17.03.2016.

Bharat Bhushan Sharma ....Appellant.

VERSUS

Joginder Singh and another ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Ishaan Cooner, Advocate for the appellant.

Respondent NO.1 exparte vide order dated 08.10.2015.

Mr. Sukhdev Singh Sandhu, Advocate for
Mr. Harkesh Manuja, Advocate for respondent No.2.

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SNEH PRASHAR, J.

By way of this appeal, appellant-Bharat Bhushan Sharma seeks enhancement of compensation awarded to him by learned Motor Accident Claims Tribunal, Panchkula (for short, "the Tribunal") vide the award dated 05.03.2014 passed in MACP No.335/13 on account of death of Shikha Sharma who lost her life in a vehicular accident on 01.08.2011.

The submissions made by Mr. Ishaan Cooner, learned counsel for the appellant and Mr. Sukhdev Singh Sandhu, learned counsel for respondent No.2 have been heard and record perused.

The grievance of the claimant is that learned Tribunal wrongly assessed the income of the deceased as Rs.7000/- per month and then arbitrarily deducted half of the income towards personal and living expenses of the deceased without considering the fact that the deceased was a married lady and her husband was the claimant. Learned counsel for the appellant also contends that the Tribunal applied the multiplier of '16' whereas the deceased was 24 years old and as per ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77*** multiplier of '18' should have been applied. Also no amount was awarded to the claimant-husband for loss of love and affection.

As regards the income of the deceased, learned Tribunal observed that the income tax returns of the deceased Ex.P11 and Ex.P12 were filed by her when she was unmarried and no income tax return was filed after she had married the claimant. On the basis of the evidence produced regarding the salary of the deceased, her income was assessed as Rs.7000/- per month. Applying the law laid down in ***Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170*** an addition of 50% to the actual income was made computing future prospects and the amount for assessing compensation was taken as Rs.10,500/- per month. Learned counsel for the appellant could not demonstrate misappreciation of the evidence of the facts apparent on the record on part of Tribunal and therefore, the above finding of the Tribunal calls for no intervention.

Admittedly, the claimant is the husband of the deceased. It is not his case that he was solely dependent on the income of his wife. In other words, he is independently earning which means that both the husband and wife had individual income. There being no other dependent of the deceased, learned Tribunal rightly held that the deceased must be spending half of her income upon herself and remaining income was being attributed by her towards her family and future saving. Accordingly, the deduction of half of the total income of the deceased towards her own personal and living expenses is appropriate and needs no modification.

However, admittedly the deceased was 24 years aged at the time of accident. In Sarla Verma and others' case (supra) the appropriate multiplier is '18' and not '16', as such, the amount allowed as Rs.10,08,000/- is enhanced to Rs.11,34,000/-. In addition to the compensation awarded under the head of loss of dependency learned Tribunal has already awarded Rs.1,00,000/- on account of loss of consortium and Rs.25,000/- towards funeral expenses to the appellant.

Accordingly, the appeal filed by the appellant-claimant is partly allowed and the award dated 05.03.2014 passed by learned Tribunal is modified. The enhanced compensation of Rs.1,26,000/- shall be deposited by the respondents within 45 days from the date of receipt of certified copy of this judgment failing which the appellant-claimant 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.

(SNEH PRASHAR)
JUDGE

17.03.2016.
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