IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.5672 of 2014.
Date of Decision: 30.05.2016.

Jatti and another ....Appellants.

VERSUS

Devender and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. S.N. Pillania, Advocate for the appellants.

Mr. Sanjeev Kodan, Advocate for respondent No.3.

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SNEH PRASHAR, J.

By way of this appeal, appellants-Jatti and another seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, Fatehabad (for short, "the Tribunal") in MACT Petition No.1 of 2013, on account of death of Rattna (husband of appellant No.1 and son of appellant No.2), who lost his life in a motor accident.

The submissions made by Mr. S.N. Pillania, learned counsel for the appellants and Mr. Sanjeev Kodan, learned counsel for respondent No.3-insurance company have been heard and record perused.

Learned counsel for the appellants-claimants argued that the deceased was a supervisor and was earning Rs.9000/- per month but learned

Tribunal wrongly assessed his income as Rs.3300/- per month and after deducting 1/3rd of the income applied the multiplier of '18' which is inappropriate. The amount of Rs.10,000/- awarded on account of loss of consortium and love and affection as well as Rs.10,000/- awarded as funeral expenses and transportation charges is inadequate. The interest rate of 7.5% per annum allowed by learned Tribunal is also on the lower side and the same should have been 12% per annum, nut no substantive and reliable evidence was led to prove his occupation and income.

Perusal of the award passed by learned Tribunal shows that there is no force in the argument of learned counsel for the appellants-claimants. The witnesses examined by the claimants deposed that the deceased was working as a supervisor of the labourers under a contract and used to earn Rs.40,000/- per annum, but no substantive and reliable evidence was led to prove his occupation and income.

Section 163-A of the Act of 1988 is a special provision for payment of compensation on structured formula basis. It provides that the owner of the motor vehicle or the authorized insurer shall be liable to pay, in the case of death or permanent disablement due to accident arising out of use of the motor vehicle, compensation as indicated in the Second Schedule to the legal heirs or the victim as the case may be. As per the note given at the bottom of the Second Schedule, 1/3rd is to be deducted towards the expenses which the victim would have incurred in maintaining himself had he been alive.

Learned Tribunal considering the deceased as a labourer under a contractor, rightly assessed his income as Rs.3300/- per month and working out the dependency qua the appellants-claimants as Rs.2200/- per month i.e. Rs.26,400/- per annum, applied the multiplier of '18'. The multiplier of '18' applied by learned Tribunal and the amount of Rs.10,000/- allowed to the appellants on account of loss of consortium and love and affection as well as Rs.10,000/- as funeral expenses and transportation charges are already on the higher side being not in consonance with the provisions of Second Schedule of the Act of 1988, but since it is a benevolent legislation and it is not the case of the respondents that the award amount has not been paid till date and also no appeal had been filed by the respondent-insurance company, the award to the said extent is not being interfered with.

Thus, finding no ground for intervention in the award, the appeal is dismissed.

(SNEH PRASHAR)
JUDGE

30.05.2016.
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