IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.8474 of 2014(O&M)

Date of decision:30.08.2016

Asha Rani and others ….Appellants

VERSUS

Daljeet Singh and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ravindra Jain, Advocate for the appellants.

Mr. R.C. Gupta, Advocate for respondent No.3.

REKHA MITTAL, J.

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Yamuna Nagar (in short 'the Tribunal') in regard to death of Harish in a motor vehicular accident that took place on 05.09.2010.

The Tribunal assessed income of the deceased at Rs.4500/- per month, allowed benefit of future prospects to the extent of 30%, deducted 1/3rd for personal and living expenses, adopted a multiplier of 15 to compute loss of dependency at Rs.7,02,000/-. In addition, an amount of Rs.10,000/- for funeral expenses and Rs.2,17,107/- for treatment of the deceased was awarded.

Counsel for the appellants/claimants would urge that as the deceased was running a karyana shop and earning Rs.15,000/- per month, compensation qua loss of income is liable to be enhanced by allowing benefit of increase in income for future prospects to the extent of 50%. It is further argued that compensation awarded under conventional heads also needs enhancement.

Counsel for the respondent (Insurance Company), on the contrary, has supported the award with the submission that the claimants have failed to adduce satisfactory much less tangible and convincing evidence to establish their plea that the deceased was running a karyana shop or earning Rs.15,000/- per month.

I have heard counsel for the parties, perused the paper-book and records of the Tribunal.

The plea of the claimants that the deceased was running a karyana shop does not find corroboration from any independent source much less documentary evidence. Asha Rani, widow of the deceased, tendered into evidence her affidavit Ex.PW6/A and deposed that her husband used to keep accounts of goods sold to different persons on credit. The account book Ex.P158 is in the name of her deceased husband. She identifies and recognizes his handwriting. He was the only bread winner of their family.

A perusal of Ex.P158 would make it evident that the same is one page on which at the top, it is written in Hindi 'Om Namah Shivay', in the middle 'Shubh Labh 28-6-2010 Somvaar'. The document Ex.P158 does not lead us anywhere to prove that any accounts were being maintained by the deceased or he was running a karyana shop. Testimony of Asha Rani with regard to karyana business does not find corroboration from any independent source. Under these circumstances, income of the deceased is to be assessed by taking into consideration his educational qualification and minimum wage available to a skilled worker in the State of Haryana in September/October 2010. The deceased was matriculate as per the certificate Ex.P157. The monthly income of the deceased is assessed at Rs.5400/-. As the deceased was less than 40 years of age, the claimants are entitled to future prospects to the extent of 50%. The Tribunal has rightly allowed deduction to the extent of 1/3rd and adopted a multiplier of 15.

In view of the above, loss of dependency comes to Rs.9,72,000/- [Rs.9,72,000/- (Rs.5400 x 12 x 15) + Rs.4,86,000/- (50% future prospects) – Rs.4,86,000/- (1/3rd deduction towards personal expenses).

The widow of the deceased is awarded an amount of Rs.1,00,000/- for loss of consortium. The children are allowed an amount of Rs.1,50,000/- in equal share for loss of love and affection and the appellants shall be entitled to an amount of Rs.25,000/- each for expenses on funeral and loss of estate. Accordingly, total compensation comes to Rs.12,72,000/- and the enhanced compensation is Rs.342,893/- (Rs.12,72,000/- - Rs.9,29,107/-), payable with interest at the rate of 7.5% per annum from the date of petition till realization. The enhanced compensation shall be payable to the claimants in equal share. The amount falling to the share of the children shall be deposited in a Fixed Deposit Receipt till they attain the age of majority or for a period of 3 years, whichever is later. The share of the widow shall be deposited in a Fixed Deposit Receipt for a period of 3 years. The interest accruing on the Fixed Deposit Receipt of the children shall be paid to the mother for meeting expenses on their education and living. The claimants shall not be entitled to raise any loan against the FDRs.

The appeal is partly allowed in the aforesaid terms.

AUGUST 30, 2016 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no

Whether reportable : yes/no