

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

FAO No.8583 of 2014.

Date of Decision: 29.02.2016.

Mamta and another

....Appellants.

VERSUS

Bir Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. H.S. Dhillon, Advocate for the appellants.

Mrs. Vandana Malhotra, Advocate for respondent No.3.

SNEH PRASHAR, J.

This appeal for enhancement of compensation is directed against the award dated 31.07.2014 passed by Motor Accident Claims Tribunal, Kurukshetra (for short, “the Tribunal”) in MACP No.299 of 2013 by virtue of which the petition filed under Section 166/140 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) by the appellants-claimants was allowed.

Precisely, the facts are that on 27.02.2012 Diksha Rani (since deceased) alongwith her mother Mamta was going from village Bhatt Majra to village Jhansa by means of scooty bearing registration No.HR-99KT-3730. At about 10:15 a.m., when they reached near village Thaska Meeranji, a truck bearing registration No.HR-58-9591 (hereinafter referred to as “the offending truck”) being driven rashly, negligently and in high

speed by its driver Bir Singh (respondent No.1) came and struck against the scooty. As a result of accident, Diksha Rani fell down and was crushed to death by the speeding offending truck whereas Mamta fell on the kacha berm of the road.

A First Information Report No.20 dated 27.02.2012 under Sections 279, 336 and 304-A of the Indian Penal Code in respect of the accident was registered against respondent No.1 at Police Station Ismailabad.

Appellants-parents of deceased Diksha Rani filed a petition invoking the provisions of Sections 166/140 of the Act of 1988 claiming compensation from the respondents-driver, owner and insurer of the offending truck. The petition was contested by the respondents on various grounds but after trial of the contentious issues it was held by learned Tribunal that the accident took place due to negligent driving of the offending truck by respondent No.1. The petition was allowed and an amount of Rs.6,73,000/- was awarded as compensation to the appellants-claimants. Respondents were held jointly and severally liable for payment of compensation amount alongwith interest at the rate of 7.5% per annum from the date of filing the petition till realization.

Feeling unsatisfied, the appellants preferred the instant appeal.

The submissions made by Mr. H.S. Dhillon, learned counsel for the appellants and Mrs. Vandana Malhotra, 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 brilliant student and had passed diploma of Basic Computer from Gurukul Technical Institute and had also passed Home Nursing Examination (Junior). She was doing a private job at Kalra Associate Computer Centre, Pehowa and was earning Rs.5000/- per month. Learned Tribunal assessed her income as Rs.4000/- per month which is on the lower side. Learned Tribunal also erred in clubbing three heads together i.e. loss of love and affection, funeral expenses and loss of estate and awarded only Rs.25,000/- towards the same.

Indeed, the appellants-claimants pleaded that deceased Diksha Rani was earning Rs.5000/- per month but no evidence worth in its was led by them to substantiate their plea. Considering the educational qualification and the evidence available on record, learned Tribunal rightly assessed the monthly income of the deceased as Rs.4000/- per month and the finding calls for no intervention.

The age of deceased Diksha Rani, when she died in accident, was 18 years and the multiplier of 18 was rightly applied by the Tribunal. The deceased was unmarried. Deducting 50% of her income towards her personal and living expenses, 1/2 of her earnings was rightly assessed as the amount spent on maintenance of the claimants. Addition of 50% to the actual income of the deceased on account of future prospects was rightly allowed by learned Tribunal. Accordingly, the compensation of Rs.6,48,000/- awarded by learned Tribunal is adequate and needs no modification.

However, in addition to the amount of Rs.6,48,000/- calculated

towards loss of dependency, an amount of Rs.25,000/- towards funeral expense; Rs.10,000/- towards loss estate and Rs.50,000/- towards loss of love and affection is allowed which shall include the amount of Rs.25,000/- already awarded by learned Tribunal under the heads of loss of love and affection, funeral expenses and loss of estate.

Accordingly, the appeal filed by the appellants-claimants is partly allowed and the award dated 31.07.2014 passed by the Tribunal is modified. The appellants-claimants are held entitled to enhanced compensation of Rs.60,000/- in addition to the amount of Rs.6,73,000/- awarded by the 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-claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum. The amount of compensation will be disbursed to the appellants-claimants in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

29.02.2016.
jitender