IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CM No.6131-CII-2016 in/and
FAO No.9019 of 2014

Date of decision : 22.03.2016

Smt. Beena Devi and others

......Appellants

Versus

Umesh Rai and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. J.P. Sharma, Advocate for applicants-appellants.

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DARSHAN SINGH, J.

CM No.6131-CII-2016

This application has been filed for restoration of FAO No.9019 of 2014, which has been dismissed in default vide order dated 19.02.2016.

Heard on the application.

In view of the reasons mentioned in the application, FAO No.9019 of 2014 is ordered to be restored at its original number.

Main petition.

The present appeal has been preferred by the appellants-claimants against the award dated 14.07.2014, passed by learned Motor Accidents Claims Tribunal, Narnaul (hereinafter called the 'Tribunal'), vide which a sum of Rs.6,36,000/- has been awarded as compensation to the claimants on account of death of Amar Singh in the motor vehicular accident, which took place on 24.08.2011.

2. The present claim petition has been preferred by the appellants-claimants for enhancement of the amount of compensation.

3. Learned counsel for the appellants contended that no amount towards the future prospects have been added to the income of the deceased.

4. I have duly considered the aforesaid contentions.

5. It is settled principle of law that the legal heirs of the victim of the accident are entitled for the just compensation. The compensation under the provisions of the Motor Vehicles Act, 1988 is not bonanza or a windfall. The claimants are only entitled for the just compensation.

6. In the instant case, the learned Tribunal has deducted 1/10th of the income of the deceased towards his personal and living expenses. He has relied upon case ***New India Assurance Company Ltd. Vs. Gopali and others 2012(3) RCR (Civil) 818***. But in my opinion, the learned Tribunal has wrongly placed reliance on this judgment as in that case, the deceased had a large family and due to that reason, it was observed by the Hon'ble Apex Court that a person having such a large family and belonging to lower income group, is not expected to spend so much amount on his personal and living expenses. But in the instant case, the deceased had only widow, a major son and parents. So, at the most

even if the major son and father of the deceased are considered to be the dependents upon the deceased, 1/4th of the income of the deceased should have been deducted towards the personal and living expenses instead of 1/10th as deducted by the learned Tribunal.

7. The deceased was more than 50 years of age and only 15% of his income could have been added to his income towards future prospects. If the deduction towards personal and living expenses of the deceased is applied 1/4th of his income and 15% future prospects are added to his income, the amount of compensation will still come less than the compensation already awarded by the learned Tribunal. Thus, the impugned award on this score requires no interference.

8. No other point was argued before me.

9. Thus, keeping in view my aforesaid discussion, the present appeal has no merits and the same is hereby dismissed.

22.03.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**