IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.939 of 2014.
Date of Decision: 06.05.2016.

Vivek and others ....Appellants.

VERSUS

Rohtash and and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Sudhir Makkar, Advocate for the appellants.

Mr. Suvir Dewan, Advocate for respondent No.2.

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SNEH PRASHAR, J.

By way of this appeal, appellants-Vivek and others seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, Bhiwani (for short, "the Tribunal") vide award dated 14.05.2013 passed in MACT Petition No.82 of 2012 on account of death of Baru Ram (father of appellants No.1 and 2 and son of appellants No.3 and 4), who lost his life in a vehicular accident.

The submissions made by Mr. Sudhir Makkar, learned counsel for the appellants and Mr Suvir Dewan, learned counsel for respondent No.2 have been heard and record perused.

Learned counsel for the appellants argued that at the time of accident the age of the deceased was 28 years. He was an agriculturist by profession and also used to deal in cattle business and in this way he was earning Rs.10,000/- per month but learned Tribunal wrongly assessed his income as Rs.4800/- per month only. Learned Tribunal while calculating the loss of dependency wrongly deducted 1/4th of the income of the deceased towards his personal living expenses. No amount was added by learned Tribunal to the income of the deceased computing future prospects. Learned Tribunal also erred in clubbing three heads together i.e. loss of consortium, loss of estate and funeral expenses and awarded only Rs.20,000/- towards the same. Also no amount was awarded to the appellants for loss of love and affection.

Except for bald ocular testimony of PW1 Sheela, mother of the deceased, no document, worth in its name, was tendered in evidence by the appellants to prove that the deceased used to do the work of cultivation and was engaged in the business of sale purchase of cattle. In absence of any substantive evidence with regard to occupation and income of the deceased, learned Tribunal rightly assessed his income as Rs.4800/- per month and that calls for no intervention.

Perusal of the award shows that no amount was added to the income of the deceased computing future prospects. Following the ratio of ***Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170*** since the age of the deceased was 28 years when he died in the accident, there had to be an addition of 50% to the actual income of the deceased on account of future prospects, which learned Tribunal failed to allow. So far as the deduction from the monthly income of the deceased towards his personal and living expenses is concerned, widow-Suman has since remarried and in view of the law laid down by Hon'ble Supreme Court in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77,*** the father of the deceased was not his dependent and only the two minor children appellants-Vivek and Sapna and mother Sheela-appellant were the dependents. As such, deduction of 1/3rd from the monthly income of the deceased towards his personal and living expenses would be appropriate. The age of the deceased being 28 years at the time of accident, learned Tribunal rightly applied the multiplier of '17'. Accordingly, the compensation payable to the appellants for loss of dependency is calculated as under:-

1.	Monthly income of the deceased (in Rupees)		Rs.4800/-
2.	Actual age of the deceased		28 years
3.	Increase in future income as per Rajesh and others' case (supra)		Rs.2400/-
4.	Annual dependency		2/3 of Rs.7200 x 12 = Rs.57,600/-
5.	Multiplier		17
6.	Total		Rs.9,79,200/-

In addition to the amount of Rs.9,79,200/- calculated towards dependency, an amount of Rs.25,000/- towards funeral expenses and Rs.10,000/- towards loss estate is allowed which shall include the amount of Rs.20,000/- already awarded by learned Tribunal under the heads of loss of consortium, loss of estate and funeral expenses. A further amount of Rs.1,00,000/- to appellants No.1 and 2 and Rs.50,000/- to appellant No.3 is awarded for loss of love and affection.

Accordingly, the appeal filed by the appellants is partly allowed and the award dated 14.05.2013 passed by learned Tribunal is modified. The enhanced compensation of Rs.4,09,800/- shall be paid to the appellants within 45 days from the date of receipt of certified copy of this judgment failing which they shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of this order till realization. The amount of compensation will be disbursed to the appellants in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

06.05.2016.
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