IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7807-2015
Date of decision: 4.5.2016

Asha Rajput @ Trishla Devi

...Appellant

Versus

Anil Pal Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.GS Jaswal, Advocate for the appellant

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SNEH PRASHAR, J.

This appeal, seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Chandigarh (for short 'the Tribunal') vide award dated 20.8.2015 passed in MACT case No.270 of 25.08.2014, on account of death of Om Parkash Rajput, husband of the appellant, has been filed by Asha Rajput alias Trishla Devi -appellant.

The submissions made by Mr.GS Jaswal, Advocate representing the appellant have been heard.

Learned counsel for the appellant submitted that the deceased was a retired bank officer and was working as part time accountant with number of firms and used to earn Rs.25,000/- per month but learned Tribunal erred in assessing his income as

Rs.10,000/- per month. It is further submitted that the amount awarded under the conventional heads is also inadequate.

Deceased Om Parkash Rajput, husband of the appellant, was 68 years old at the time of accident. Learned Tribunal observed that PW2 Om Parkash Gupta, Proprietor of M/s Gupta Electric Store, PW3 Madan Gopal Singla, PW4 Vijay Jain, Sole Proprietor of M/s SS Traders and PW5 Ajay Partap Singh, Proprietor of M/s Toy Zone, who have tendered their separate affidavits Ex.PW2/A to Ex.PW-5/A respectively, they have testified that the deceased was working for their respective firm/ company and was being paid for his work. But during the course of their cross-examination all the abovesaid witnesses have failed to show any document with regard to employment of Om Parkash Rajput and with regard to any monthly salary or payment made by him regarding the services provided by him to any of them. Neither any income tax return nor any other document showing receipt of the amount from these firms was produced by the appellant. Therefore, in absence of some substantive evidence regarding income of the deceased, the Tribunal has taken the income of the deceased as Rs.10,000/- per month, which is just and appropriate.

In view of the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**, the deduction of 1/3rd towards personal and living expenses of the deceased was rightly made. The Tribunal had awarded a sum of Rs.One lac on account of loss of consortium and another sum of Rs.25,000/- on account of funeral expenses, which is in consonance with the law laid down in **Vimal Kanwar and others vs. Kishore Dan and others (2013-3) PLR 776**.

In the above premise, finding the compensation awarded by learned Tribunal as just and appropriate, the impugned Award does not warrant any intervention and the present appeal being bereft of merit is dismissed.

4.5.2016 **(SNEH PRASHAR)**
gsv **JUDGE**