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

Sr. No.207

FAO No.4297 of 2009
DECIDED ON: *February 09, 2017*

SATYA DEVI AND ANOTHER

..APPELLANTS

VERSUS

DALBIR SINGH AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. P.S. Jammu, Advocate,
for the appellants.

Mr. Namit Khurana, Advocate,
for respondent No.1.

Ms. Vandanaa Malhotra, Advocate,
for respondent No.2.

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JASPAL SINGH, J.

Challenge in this appeal is to the Award dated June 02, 2009, passed in MACT No.39 of 2006, captioned as "*Satya Devi & another vs. Dalbir Singh & another*" whereby a claim petition preferred under Section 163-A of the Motor Vehicles Act, 1988 (for brevity 'Act' only) has been partly allowed and the appellants-claimants have been held entitled to ₹14,500/- in equal shares (after adjusting a sum of ₹1,40,000/- already

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received by the appellants-claimants as compensation on account of death of their son Kamal Kumar) along with interest @ 7% p.a. from the date of claim petition till its realization.

2. While assailing the impugned Award dated June 02, 2009, it has been argued with vehemence by the learned counsel for the appellants that Kamal Kumar (since deceased) was aged about 19 years at the time of his unfortunate demise and was a student of 10th class. He was a singer and used to recite religious Songs/Bhajans. He was earning ₹3300/- per month and used to hand over his entire income to his parents i.e. appellants-claimants who were completely dependent upon him.

3. While developing his arguments, it has been submitted by learned counsel for the appellants that though, learned Tribunal has rightly decided issue no.1 in favour of the appellants-claimants yet while deciding issue no.2, income of the deceased assessed by learned Tribunal to the tune of ₹1500/- per month is on the lower side and at least his income should have been assessed to the tune of ₹3300/- per month. Similarly, the multiplier applied by the learned Tribunal is also not correct according to the age of the deceased, who was proved to be of 19 years old at the time of his death. Not only this, learned Tribunal has also not awarded any compensation on account of loss of love & affection and future prospects etc. The grant of funeral expenses to the tune of ₹2500/- by the learned Tribunal also deserves to be enhanced to the tune of ₹25,000/- besides the enhancement of an amount on account of the loss of estate which has only been granted to the tune of ₹2000/-.

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4. On the other hand, learned counsel for the respondents submitted that the claim petition has been preferred by the appellants under Section 163-A of the Act. Just and adequate compensation as per Scheduled II appended with the Act has already been granted to the appellants-claimants. As far as, the age of the deceased Kamal Kumar is concerned, it has been wrongly projected by the learned counsel for the appellants to be 19 years. In fact, it stands fully established by way of documentary evidence that Kamal Kumar was only 15/16 years of age at the time of his death. Since, the compensation has been paid absolutely in consonance with the provisions contained in Scheduled II of the Act, no further enhancement is permissible.

5. After bestowing due consideration to the aforesaid rival submissions made by learned counsel for the parties and scrutinizing the impugned Award as well as the evidence, this court is of the considered view that the impugned Award does not call for any interference by this Court.

6. Admittedly, the claim petition which has been disposed of vide impugned Award dated June 02, 2009 was preferred under Section 163-A of the Act. It is also fully proved on record that on the day of accident or the death of Kamal Kumar, he was approximately 16 years of age. The factum of his age finds mention in the postmortem report Ex.P-1. Besides it, there is a testimony of RW-1 Ram Chander son of Parmanand, owner of Saraswati Mehta Middle School, Kheri Lakha Singh who has categorically deposed that deceased Kamal Kumar was a student of 10^{th} class in his school and as per the record maintained by the school as well as the

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admission register, the date of birth of deceased is November 06, 1991. Whereas death of Kamal Kumar took place on November 11, 2006, meaning thereby, that he was approximately 15 years old or so. The above discussed evidence falsifies the contention of the appellant that the deceased was 19 years of age. Thus, the notional income of the deceased Kamal Kumar has rightly been assessed by the Tribunal to the tune of ₹15,000/- P.A. and after deducting 1/3rd in consideration of the expenses which the deceased would have incurred towards maintaining himself had he been alive, dependency has been rightly assessed to the tune of ₹10,000/- per annum. Similar, multicans of 15 has also been correctly applied as provided in IInd Scheduled of the Act. Thus, the compensation awarded by the learned Tribunal through the impugned Award is absolutely in accordance with Scheduled II appended with the Act which is otherwise just and adequate.

7. In the light of what has been discussed above, this court does not find any merit in the instant appeal and same is dismissed.

February 09, 2017 **(JASPAL SINGH)**
Ankur **JUDGE**

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**