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

FAO-3792-2010
Date of decision: 28.09.2017

Des Raj Garg and others .... Appellants

Versus

Shiv Kumar @ Harwinder Singh and others ..... Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present : Ms. Priyadeep, Advocate with
Mr. Mrigank Sharma, Advocate
for the appellants.

Mr. Paul S.Saini, Advocate
for the Insurance Company.

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**<u>Avneesh Jhingan, J.</u>**

The present appeal has been filed against the award dated 16.01.2010 passed by Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as the 'Tribunal') in a MACT Case No.136 of 2007.

The brief facts necessary for adjudication of the present appeal are that on 28.04.2007, Raman Kumar, aged 27 years, along with his wife was travelling in a car bearing registration No.HR02-N-6116. When the said car reached near Sant Nischal Singh Public School, Yamuna Nagar, it was struck by a truck bearing registration No. PB-32E-2197 (for short, "the offending vehicle'). As a result of the accident, Raman Kumar and his wife lost his life on the spot.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by one year old minor daughter and parents of the deceased.

The Tribunal after considering the witnesses and evidence, awarded a sum of Rs.11,62,000/- along with interest @ 8% per annum. The amount awarded included Rs.5,000/- for funeral expenses and Rs.5,000/- was awarded for loss of consortium.

I have heard the learned counsel for the parties and have perused the paperbook with their able assistance.

There is no dispute on the facts of the case by either of the party. The only issue raised in appeal is that the compensation awarded by the Tribunal needs to be enhanced.

Learned counsel for the appellant has argued that income of the deceased has been assessed at Rs.9,000/- per month. Whereas as per the income tax return for financial year 2005-06 produced before the Tribunal, the income of the deceased was approximately Rs.1,10,503/- per annum. This was return for the immediate previous financial year after deduction. Further, it was contended that after deduction multiplier of 16 has been applied whereas multiplier of 17 should have been applied. The counsel further contended that nothing has been awarded for loss of love and affection and even the amount awarded for the funeral expenses is on the lower side.

Learned counsel for the respondent defended the award and keeping the entirety of the case, the Tribunal has awarded the just and equitable compensation and no more enhancement of compensation is required.

The contentions made by learned counsel for the appellant deserves acceptance.

As per the income tax return which is for the immediate preceeding financial year, the income of the deceased was Rs.12000/- per month after deduction of income tax. Keeping in view the dependency loss has to be re-assessed, taking the income as Rs.12,000/- per month.

In case of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77***, the Hon'ble Apex Court has held that in case the age of the deceased is between 26 to 30 years, multiplier 17 has to be applied. The deduction made by the Tribunal has not been disputed. The loss of dependency is recalculated as below:-

| | |
|---|---|
| *Income* | *Rs.12000/-* |
| *Annual income* | *Rs.12000x12=1,44,000/-* |
| *1/3 rd deduction for self expenses* | *Rs.48,000/-* |
| Dependency | Rs.1,44,000/-Rs.48,000/- =Rs.96,000/- |
| Applying multiplier of 17 | Rs.96,000/-x17=Rs.16,32,000/- |

The contention of learned counsel for the appellants with regard to the grant of compensation under the head of loss of love and affection is also in consonance with the law laid down by the Hon'ble Apex Court in ***Asha Verman and others Vs. Maharaj Singh and others, 2015(4) SCC (Civil) 767.***

As per the decision referred above, the amount of Rs.50,000/- is awarded for loss of love and affection and the funeral expenses of Rs.5,000/- are enhanced to Rs.15,000/-.

The award dated 16.01.2010 is modified to the extent that the amount awarded by the Tribunal of Rs.11,62,000/-is enhanced to Rs.16,97,000/-.

The claimants shall be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed and is disposed of accordingly.

**(AVNEESH JHINGAN)**
**JUDGE**

**28.09.2017**
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1.Whether the order is speaking/reasoned: Yes

2.Whether the order is reportable : Yes