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

FAO-2137-2013
Date of decision: 19.1.2017

Jagwanti and others
...Appellants

Versus

Raj Kumar and others
...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr. Gagandeep Rana, Advocate for the appellants

Ms.Rohini Bedi, Advocate for
Mr. Vishal Goel, Advocate for respondent No.3.

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SNEH PRASHAR, J.

Claimants-appellants being the widow, sons, daughter and parents of deceased Satpal, who lost his life in a road side accident on 22.2.2010, filed the present appeal seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Sonepat (hereinafter referred to as 'the Tribunal') vide award dated 22.11.2012 passed in MVA Petition No.15 of 6.4.2011.

The submissions made by Mr.Gagandeep Rana, Advocate representing the appellants and Ms. Rohini Bedi, Advocate for respondent No.3- Insurance Company have been heard and record perused.

Learned counsel for the appellants submitted that the deceased being a contractor in white washing, polishing, decoration work etc. used to earn Rs.40,000/- per month but learned Tribunal erred in assessing his income as Rs.3600/- per month. No amount computing future prospects was added to the actual monthly income of the deceased. It was further submitted that the amount awarded under conventional heads is inadequate, whereas nothing was awarded towards loss of love, care and guidance to the children.

The fact that Satpal died due to the injuries suffered by him in a road side accident that occurred due to rash and negligent driving of the offending vehicle by respondent No.1, is no more a contentious issue. He was 35 years old at the time of his death. As regards income of the deceased, the claimants alleged that he was a Contractor by profession but no substantive and reliable evidence could be led by them to support their claim. It could also not be proved that the deceased was earning Rs.40,000/- per month. As such, considering the notifications/ circulars issued by the State Government from time to time for fixing the minimum wages to be paid to a labourer, learned Tribunal assessed the monthly income of the deceased as Rs.3600/-, which is just and adequate.

Perusal of the award shows that no amount was added to the income of the deceased computing his future prospects. Following the law laid down in **Rajesh and others vs. Rajbir Singh and others 2013 (9) SCC,** an addition of 50% to the actual income of the deceased towards future prospects is allowed.

The claimants are the widow, minor sons, daughter and parents. The deceased was the sole bread earner of the family and his untimely death caused a great shock to the family members.

Following the ratio of **Vimal Kanwar and others vs. Kishore Dan and others (2013-3) PLR 776,** the amount awarded under loss of consortium is enhanced to Rs.One lac and the amount awarded on account of funeral expenses is enhanced to Rs.25,000/-. Further a sum of Rs.One lac is allowed to the minor children in equal shares on account of loss of love, care and guidance and Rs.50,000/- is allowed to the mother of the deceased on account of loss of love and affection.

Accordingly, the total compensation comes to Rs.10,60,100/- (3600 (monthly income) + 50% (future prospects) - 1/4th (deduction towards living and personal expenses of the deceased) x 12 x 16 + 2,82,500 (under the conventional heads including the amount already awarded by Tribunal). The enhanced compensation amount of Rs.5,21,700/- (10,60,100- 5,38,400) shall be paid to the appellants in similar terms as mentioned in the award by learned Tribunal within two months from the date of receipt of the certified copy of this judgment, failing which, it shall carry interest @ 7.5 % per annum from the date of filing of the appeal till its realisation.

In view of the above, the present appeal is partly allowed and the award is modified to the above extent.

19.1.2017 **(SNEH PRASHAR)**
gsv **JUDGE**

Whether speaking / reasoned? Yes / No

Whether reportable? Yes / No