IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2315 of 2013 (O&M)
Date of decision: 02.05.2017

Rupinder Kaur and others ... Appellants

Versus

Ranjit Singh and others .... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Aminder Singh, Advocate for the appellants.

Ms. Shamsher Kaur, Advocate for respondent No.3.

HARI PAL VERMA, J. (ORAL)

The appellants-claimants have filed the present appeal seeking modification/enhancement of the compensation in the award dated 16.11.2012 passed by the Motor Accident Claims Tribunal, Sangrur (in short the 'Tribunal').

Briefly stated, the appellants have filed a claim petition Section 166 of the Motor Vehicle Act seeking compensation on account of death of Randhir Singh, in the motor vehicle accident which took place on 30.04.2010. The widow, minor son and the old father of the deceased approached have the Tribunal for the compensation on account of death of Randhir Singh. The deceased was a young boy aged 27 years and doing the dairy farming and agriculture work. He used to collect

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milk from different farmers and sell it at the collecting centre. He was earning Rs.10,000/- per month. Since the claimants have not produced any document so as to prove the income of the deceased, therefore, in the absence of any documentary proof regarding income of the deceased-Randhir Singh, the Tribunal has taken his monthly income at Rs.3,000/- per month. After deducting 1/3rd of his income towards personal expenses and applying a multiplier of 17, the Tribunal has assessed the compensation of Rs.4,08,000/-. Rs.2,000/- was also awarded towards funeral expenses. Thus the total compensation comes to Rs.4,10,000/-. Not satisfied with the aforesaid amount of compensation, the claimants have filed the present appeal seeking enhancement.

Learned counsel for the appellants has argued that the income assessed by the Tribunal is on a lower side. The deceased-Randhir Singh was a young man of about 27 years of age. He was married and having one son and also used to take care of his old father. Therefore, he was earning much more than amount assessed by the Tribunal. It is not practically possible that such like family can be maintained in Rs. 3,000/- per month and, therefore, the monthly income of the deceased was required to be assessed much more than what had been assessed by the Tribunal. He has further argued that while deciding the claim petition, the Tribunal was so casual that it has not even considered the compensation under the head of the consortium, love and affection, despite the fact that the deceased Randhir Singh has left behind

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a widow aged 25 years, a son and old father. Therefore, the award need modification/enhancement.

On the other hand, learned counsel for the respondent-insurance company has vehemently argued that the Tribunal has already awarded adequate compensation to the claimant and in the absence of income proved by the claimants, the income of the deceased has rightly been assessed at Rs.3,000/- per month. The claimant has not produced any documentary evidence in support of his income, whereby income of the deceased can be assessed more than Rs.3,000/- per month.

I have heard learned counsel for the parties and have perused the file carefully.

This court find that the award passed by the Tribunal need to be modified/enhanced. There is no dispute that the deceased was about 27 years of age. He was maintaining a family consisting of a young widow, the minor son and old father and such like family cannot be maintained on a monthly income of Rs.3,000/-. Therefore, this Court deem it appropriate to assess the monthly income of the deceased at Rs.4500/-. Keeping in view the age of deceased, the multiplier of 17 and deduction of 1/3rd towards personal expenses applied by the tribunal are appropriate in view of law laid down by Hon'ble Apex Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121.***

Accordingly, by applying cut of 1/3rd towards personal

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expenses, the annual dependency comes to Rs.36,000/- (4500- $^1/_3$ x12) and while applying multiplier of 17, the compensation comes to Rs.6,12,000/- (36000x17). No amount has been awarded by the tribunal towards consortium and love and affection. A sum of Rs. 1,00,000/- is awarded under the head consortium to Rupinder Kaur-widow of the deceased. Similarly, a sum of Rs.1,00,000/- is awarded towards love and affection to claimant No.2 Karamjit Singh - minor son the deceased. The amount of Rs.2000/- awarded by the Tribunal towards funeral expenses is enhanced to Rs. 25,000/-. Thus, the total compensation is comes to Rs.8,37,000/- (612000+ 100000+100000 + 25000). Since the Tribunal has awarded a total compensation of Rs.4,10,000/-, this amount shall liable to be deducted from the modified awarded amount. The claimants shall also be held entitled for interest on the enhanced amount @ 6% per annum from the date of claim petition till its realization.

With the aforesaid modification, the present appeal stands disposed of.

(HARI PAL VERMA)
JUDGE

02.05.2017
kv

Whether speaking/non-speaking : Yes/No
Whether reportable : Yes/No

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