

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1177 of 2014

Date of decision:- January 24, 2017

SMT. TAMIJAN AND OTHERS

....APPELLANTS..

VS.

FARUKH AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Ashish Gupta, Advocate,
for the appellants.

Mr. Rajbir Singh, Advocate,
for respondent No.3.

JASPAL SINGH, J.

Feeling aggrieved against the award dated 25.11.2013, passed by Motor Accident Claims Tribunal, Nuh (for short, "Tribunal") in MACT No.897 of 2013, captioned as "***Smt. Tamijan and others vs. Farukh and others***" under Section 166 of the Motor Vehicles Act, 1988 (for brevity, "the Act"), whereby the claimants No.1 and 3 to 9 were awarded compensation to the tune of ₹8,35,000/-, on account of death of Mannan in a vehicular accident occurred on 01.11.2012 at 4:00 p.m. ahead of Garhi turn village Mohammedpur Ted, they have preferred the instant appeal for enhancement thereof.

2. Concededly, the monthly income of the deceased was assessed as ₹5000/- per month by ld. Tribunal and the appellants-claimants were granted the compensation to the tune of ₹8,35,000/- after deducting 1/6th of the expenses which deceased would have incurred towards maintaining

himself had he been alive. The annual dependency was worked out to ₹8,00,000/- per annum (₹50,000x16). The multiplier of 16 was applied taking into consideration the age of the deceased to be 35 years at the time of his death. In addition to it, a sum of ₹25,000/- was awarded on account of transportation and last rites of the deceased and Rs.10,000/- was granted towards loss of consortium. Thus, it is evident that no amount of compensation was paid on account of future prospects and loss of love and affection whereas the amount of compensation awarded on account of loss of consortium, loss of estate and funeral expenses is unjust and inadequate, especially, in view of the guidelines laid down by Hon'ble Apex Court in case captioned as ***“Smt. Sarla Verma and others vs. Delhi Transport Corporation and another” 2009(3) RCR (Civil) 77*** which has subsequently been approved in case captioned as ***“Rajesh vs. Rajbir 2013 (3) RCR (Civil) 170***. As per the guidelines, the claimants are entitled for compensation on account of future prospects. In view of the age of the deceased i.e. 35 years, 50% of the income i.e. 2500/- is to be added as future prospects, thus, it comes to 7500/-(5000+2500). After deducting 1/6th i.e. 1250 as personal expenses, the dependency of the claimants comes to ₹6250/- per month. As the age of the deceased was 35 years, multiplier of 16 is to be applied. The total amount of compensation on account of loss of income comes to ₹12,00,000/- (6250x12x16). Minor appellants-claimants are also entitled for a sum ₹1,00,000/-on account of loss of love and affection. Besides it, Smt. Rihana, widow of Mannan (deceased) is entitled to a sum of ₹90,000/- more by way of compensation on account of loss of consortium in addition to ₹10,000/-. Thus, the total amount works out to ₹13,90,000/- to which, the claimants are entitled on account of death of

Mannan. Thus, the claimants shall be entitled to enhanced compensation to the tune of ₹5,55,000/- i.e. an amount in addition to the compensation of ₹8,35,000/- already awarded by the Tribunal.

3. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants No. 1 & 3 to 9 shall be entitled to enhanced amount of ₹5,55,000/- in addition to the compensation already awarded. The insurance company-respondent No.3 is directed to pay the amount so enhanced within a period of 60 days from the date of receipt of certified copy of this order and on its failure to make the payment within stipulated period, it would entail interest @ ₹6% per annum from the date of filing of the clam petition before the Tribunal till realization.

4. Parties to bear their own cost.

January 24, 2017
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes