IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.3180 of 2013.
Date of Decision: 08.02.2017.

Phoolpati @ Kavita and others ....Appellants.

VERSUS

Jagminder Singh and others ....Respondents.

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CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Surender Saini, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate for respondent No.3.

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SNEH PRASHAR, J.

This appeal for enhancement of compensation is directed against the award dated 01.12.2010 passed by Motor Accident Claims Tribunal, Sonepat (for short, "the Tribunal") in MACT Petition No.6 of 2010 by virtue of which the petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, "the Act of 1988") by the appellants-claimants was partly accepted with costs.

Precisely, the facts are that on 16.12.2009 at about 3:00 p.m., Naresh (since deceased) alongwith one Mukesh was going to Sonepat in a car bearing registration No.DL-7CB-0054. The car was being driven by Mukesh. When they reached in the area of village Rattangarh, District Sonepat, a truck bearing registration No.HR-69-6588 (hereinafter referred to as "the offending truck"), being driven by respondent No.1 Jagminder Singh rashly, negligently and in a high speed, struck against their car. As a result of accident, Naresh sustained multiple serious injuries and was taken to General Hospital, Sonepat where he was declared dead.

A First Information Report No.180 dated 16.12.2009 under Sections 279 and 304-A of the Indian Penal Code in respect of the accident was registered at Police Station Mohana.

Appellants-widow, minor children and parents of deceased Naresh filed a petition invoking the provisions of Section 166 of the Act of 1988 claiming compensation from the respondents-driver, owner and insurer of the offending truck. The claim petition was contested by the respondents. On the basis of the pleadings of the parties issues were settled. Considering the ocular and documentary evidence led by the parties and the submissions made on their behalf, the claim petition was partly accepted by the Tribunal and an amount of Rs.6,32,000/- alongwith interest at the rate of 7.5% per annum from the date of filing of the petition till realization was awarded to the appellants as compensation.

Feeling unsatisfied with the award dated 01.12.2010, the appellants preferred the instant appeal.

The submissions made by Mr. Surender Saini, learned counsel for the appellants and Ms. Vandana Malhotra, learned counsel for respondent No.3 have been heard.

Learned counsel for the appellants argued that the deceased used to earn Rs.15,000/- from agricultural work and dairy business, but learned Tribunal wrongly assessed his income as Rs.4000/- per month. No addition was made computing future prospects of the deceased and the multiplier of '17' was also wrongly applied as the deceased was aged 28 years. Moreover, the amount of compensation awarded under the heads of funeral expenses and loss of estate and loss of consortium is inadequate. Nothing was awarded to the appellants towards loss of love and affection.

No substantive and reliable evidence was produced by the appellants to prove the occupation and income of the deceased. In absence of required evidence and considering the year in which the accident took place and other relevant factors, learned Tribunal rightly assessed the income of the deceased as Rs.4000/- p.m. and that calls for no intervention.

Perusal of the award shows that no amount was added to the income of the deceased computing future prospects. Following the ratio of ***Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170*** since the age of the deceased was 28 years when he died in the accident, there had to be an addition of 50% to the actual income of the deceased on account of future prospects, which learned Tribunal failed to allow. Anyhow, the multiplier of '17' was rightly applied.

The deceased was survived by widow Pholpati @ Kavita, two minor children Rahul and Nainsi and parents Dharam Pal and Sunheri. Therefore, as per law laid down in ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77*** the deduction of 1/4th towards personal and living expenses of the deceased was rightly made by learned Tribunal. Accordingly, the compensation payable to the appellants-claimants is calculated as under:-

1.	Monthly income (in Rupees)		Rs.4000/-
2.	Actual age of the deceased		28 years
3.	Increase in future income as per Rajbir Singh & ors.' case (supra)		Rs.2000/-
4.	Annual dependency		3/4 of Rs.6000 x 12 = Rs.54,000/-
5.	Multiplier		17
6.	Total		Rs.9,18,000/-

In addition to the amount of Rs.9,18,000/- calculated towards dependency, the amount of Rs.15,000/- awarded under the funeral expenses and loss of estate is enhanced to Rs.25,000/- whereas the amount of Rs.5000/- awarded towards loss of consortium to the widow is enhanced to Rs.1,00,000/-. A further amount of Rs.1,00,000/- is awarded to the appellants-claimants for loss of love and affection. In the above premise, the appellants-claimants are held entitled to compensation of Rs.11,43,000/- as indicated above.

Accordingly, the appeal filed by the appellants-claimants is partly allowed and the award dated 01.12.2010 passed by the Tribunal is modified. The appellants-claimants are held entitled to enhanced compensation of Rs.5,11,000/- in addition to the amount of Rs.6,32,000/- already awarded by the Tribunal. The enhanced amount of compensation shall be deposited within 45 days from the date of receipt of certified copy of this judgment failing which the appellants-claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of appeal till realization. The amount of compensation will be disbursed to the appellants-claimants in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

08.02.2017.
jitender sharma

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No