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

FAO No.4876 of 2014(O&M)
Date of Decision: August 21, 2017

Surjit Kaur and another ...Appellants

Versus

Jaswinder Singh @ Mani and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Anil Kumar Spehia, Advocate
for the appellants.

Mr.Neeraj Khanna, Advocate
for respondent No.3 – Insurance Company.

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HARINDER SINGH SIDHU, J.

The present appeal has been filed by the widow and minor son of Manmohan Singh, who lost his life on 20.6.2012 due to the injuries suffered in a vehicular accident in the area of gate of village Muddowal.

On the unfortunate day, i.e. 20.6.2012, Manmohan Singh was going to Kapurthala for his duty on his motorcycle No.PB-18H-7568. At about 11.00 am, when he reached near gate of village Muddowal, the motorcycle was hit by an Indica Car bearing No.PB-09L-2463, being driven rashly and negligently by Jaswinder Singh @ Mani – respondent No.1, as a result of which, Manmohan Singh suffered multiple injuries. He was taken to Civil Hospital, Kapurthala, where, he was declared dead. FIR No.72 dated 20.6.2012 under Sections 304-A, etc. IPC was registered in Police Station Subhanpur.

The appellants – claimants filed claim petition before Motor Accident Claims Tribunal, Kapurthala (hereinafter referred as `the Tribunal'), wherein, the Tribunal assessed the income of the deceased at Rs.6000/- per month, deducted 1/3rd on account of his personal & living expenses and applied the multiplier of 15 considering his age of 39 years at the time of the accident. The total loss of dependency was held to be Rs.7,20,000/-. That apart, Rs.5000/-, Rs.2000/-, Rs.3000/- and Rs.10,000/- were awarded under the heads of 'loss of consortium', 'funeral charges', 'transportation charges' and 'loss of love and affection', respectively. In all, the claimants were held entitled to Rs.7,40,000/- along with interest vide the impugned award dated 17.2.2014.

Feeling dissatisfied with the compensation amount, the claimants are before this court.

Placing reliance on the statement of Vinod Kumar, Senior Assistant, Punjab Small Scale Industries & Export Corporation, Jalandhar, who appeared as AW3 before the Tribunal, Ld. Counsel for the appellants – claimants has stated that the deceased was working as skilled beldar at the time of the accident i.e. 20.6.2012 and was getting Rs.255/- per day. He had been working in the department since 1.4.1992 i.e. for the last more than 20 years. It is contended that accordingly, the monthly income of the deceased was required to be assessed at Rs.7650/- (255x30) and benefit of enhancement of 50% in the income towards future prospects should have been granted, the deceased being less than 40 years of age. Further, it is contended that in view of the law settled by the Hon'ble Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and**

Anr, *2009(6) SCC 121*, **Rajesh and others vs. Rajbir Singh and others**, *2013 ACJ 1403, etc.* the compensation awarded under other heads is also on the lower side.

I have heard Ld. Counsel for the parties and perused the Tribunal record, as placed on the file by Ld. Counsel for the appellants.

Though, the statement of AW3 Vinod Kumar reveals that the deceased was working in Punjab Small Scale Industries & Export Corporation since 1.4.1972, but at the same time, he also stated that he was getting Rs.255/- per day, for the days when he was working. Considering this, Tribunal appears to be justified in assessing the income of the deceased at Rs.6000/- per month.

The deceased had been working on daily wages in a Government Corporation for the last more than twenty years. Even though his services had not been regularized, however his income during this period had been steady and regular. The daily wages payable are revised from time to time, as per the Government instructions/policy.

Hon'ble the Supreme Court in **Rajesh's case** (supra) has held that in case of self-employed or persons with fixed wages, below 40 years, there must be an addition of 50% to the actual income of the deceased. The said view has been followed by Hon'ble the Supreme Court in **Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(6) SCC 347.**

In view of his steady and continuous work for over twenty years with the Government Corporation, his dependents cannot be in a more disadvantageous position than those working in the un-norganized sector. There is no reason to deny the claimants the benefit of addition of 50% in the income towards future prospects. Accordingly, the income of the deceased, for the purpose of assessment of loss of dependency, is to be determined at Rs.9,000/- per month..

The amount awarded under various heads, other than the loss of dependency, also deserve to be suitably enhanced in view of the law settled by Hon'ble the Supreme Court in various cases including the cases of **Sarla Verma**, **Rajesh** *(supra)* and **Vimal Kanwar and others Vs. Kishore Dan and others 2013 (7) SCC 476.**

In view of above, the claimants are entitled to compensation as under:-

Sr.No.	Heads	Calculation (In Rs.)
(i)	Income (after 50% increase)	6000+[6000x50/100] = 9000/- p.m.
	1/3rd of (i) deducted as personal and living expenses of deceased	9000 – [9000x1/3] 6000/-
	After applying multiplier of 15	6000x12x15= 10,80,000/-
(ii)	Loss of Love and Affection to the minor child	1,00,000/-
(iii)	Funeral Expenses	25,000/-
(iv)	Loss of consortium (exclusively for the widow of deceased)	1,00,000/-
(v)	Transportation expenses (as awarded by the Tribunal)	3,000/-
	Total Compensation awarded	13,08,000/-

Accordingly, the appeal is allowed and the Award of the Tribunal is modified to the extent that the appellants are held entitled to total compensation of Rs.13,08,000/-, that is, Rs.5,68,000/- (1308000-740000) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

That amount awarded under heads at Sr.No.(ii) and (iv) `loss of love and affection' and `loss of consortium' shall be payable to the claimants, as indicated therein.

August 21, 2017 **(HARINDER SINGH SIDHU)**
gian **JUDGE**

Whether Speaking / Reasoned	Yes / No
Whether Reportable	Yes / No