IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-5758-2013 (O&M)
Date of decision: 2.5.2017

Amit Kumar and another
...Appellants

Versus

Jagdev Singh @ Binder and others
...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Vinod K.Kanwal, Advocate for
Mr.Ashit Malik, Advocate for the appellants

Mr.Rajinder Singh, Advocate for respondent No.2

Mr.Naveen Chopra, Advocate for respondent No.4.

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SNEH PRASHAR, J.

By way of this appeal, appellants- Anil Kumar and anohter seek enhancement of the compensation awarded to them by learned Motor Accident Claims Tribunal, Kurukshetra (for short 'the Tribunal') vide the award dated 1.8.2013 passed in MACT case No.119 of 2011 on account of death of Poonam Rani (wife of appellant No.1 and mother of appellant No.2), who lost her life in a motor vehicular accident that took place on 15.8.2011. .

The submissions made by Mr.Vinod K.Kanwal, Advocate representing the appellants, Mr.Rajender Sharma, Advocate for respondent No.2 and Mr.Naveen Chopra, Advocate for respondent No.4 have been considered and record perused.

Learned counsel for the appellants contended that the deceased by running a boutique and also by doing tuition work was earning Rs.15,000/- per month but learned Tribunal wrongly assessed her income as Rs.4800/- per month and then rationally deducted 1/3rd of the income towards personal and living expenses of the deceased without appreciating the fact that the deceased was a married lady and her husband and daughter were the claimants- appellant and no deduction towards personal and living expenses of the deceased was called for while taking the value of services of the deceased as a housewife. No amount was added to the income of the deceased computing future prospects. The amount awarded for funeral expenses is on the lower side. Also no amount was awarded to the appellants for loss of love and affection and loss of consortium.

No substantive and reliable evidence could be produced by the appellants to prove the qualification and income of the deceased. Deceased Poonam Rani was taken to be a housewife by learned Tribunal and the value of her service to calculate pecuniary loss to the appellants was assessed as Rs.4800/- per month, which is appropriate. No amount is required to be added to the income of the deceased while computing future prospects. However, learned Tribunal erred in deducting 1/3rd of the income of the deceased towards her personal and living expenses which needs modification as in **Paramjit Singh and another vs. Dilbagh Singh alias Bagga and others**, 2014(4) RCR (Civil) 895 Hon'ble Apex Court has held that while calculating the notional income of a housewife, the entire income should be taken as dependency of the legal heirs without applying any cut. The deceased being 26 years aged at the time of accident, multiplier of 17 was rightly applied by learned Tribunal, however, the amount awarded towards funeral expenses is on the lower side.

Accordingly. an amount of Rs.25,000/- (including the amount already awarded) is allowed to the appellants on account of funeral expenses. Since, nothing was awarded on account of loss of consortium to the husband (appellant No.1) and loss of love, care and guidance to the minor daughter (appellant No.2), Rs.50,000/- is allowed to appellant No.1 for loss of consortium and another amount of Rs.50,000/- is allowed to appellant No.2 for loss of love, care and guidance. In that manner, the total compensation comes to Rs.11,04,200/- (4800x 12 x 17 (multiplier) + 1,25,000 (conventional heads). The enhanced amount of Rs.4,41,400/- (11,04,200- 6,62,800) shall be paid to the appellants within two months from the date of the receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of filing of the appeal, till its realization.

With the above modification in the award, the present appeal is partly allowed.

2.5.2017 **(SNEH PRASHAR)**
gsv **JUDGE**

Whether speaking / reasoned? **Yes / No**
Whether reportable? **Yes / No**