IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4726 of 2015
Date of decision:- May 23, 2017

ASHOK KUMAR AND OTHERS

....APPELLANTS..

VERSUS

BALJIT SINGH AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Neeraj Khanna, Advocate,
for the appellants.

Mr. Rajesh Verma, Advocate,
for respondent No.2.

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JASPAL SINGH, J.

Feeling aggrieved against the award dated 04.12.2014, passed by Motor Accident Claims Tribunal, Chandigarh (for short, "Tribunal") in MACT No.850 of 2012, captioned as **"Ashok Kumar and others vs. Baljit Singh and others"** under Section 166 of the Motor Vehicles Act, 1988 (for brevity, "the Act"), whereby the claimants were awarded compensation to the tune of ₹9,85,658/-, on account of death of Kanta Rani in a vehicular accident occurred on 18.08.2011 near FCI Office, Sector 29, Chandigarh, they have preferred the instant appeal for enhancement thereof.

2. Assailing the impugned award dated 04.12.2014, it has been argued by learned counsel for the appellants that ld. Tribunal has assessed the income of the deceased only to the tune of ₹4000/- whereas, she was

earning more than ₹40,000/- per month as she was doing the business of tailoring and obtained license to obtain foreign liquor and beer from godown of Rajasthan State Beverage Corporation and retail it from Zone No.4, Shop No.2, MC Albar w.e.f. 01.04.2011 to 31.03.2012. Learned counsel for the petitioner further submits that ld. Tribunal has not taken into consideration the income tax return for the assessment year 2012-2013 showing the income of the deceased as ₹8,02,720/-. He further submits that nothing has been awarded on account of loss of love and affection to the claimants.

3. On the other hand, learned counsel for the respondent-Insurance company has supported the impugned award dated 04.12.2014 and has submitted that just and adequate compensation has already been awarded by the ld. Tribunal. There is no illegality and infirmity in the award. Thus, appeal being devoid of merit is liable to be dismissed, that too, with special costs.

4. After bestowing due consideration to the rival submissions made by learned counsel for the parties and appraisal of records available, this Court finds force in the submissions made by learned counsel for the appellants for enhancement of compensation awarded by the ld. tribunal.

5. It is an undisputed fact that nothing has been awarded on account of loss of love and affection. The amount of compensation awarded on account of death of Kanta Rani 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 also entitled for compensation on account of loss of love and affection. Thus, appellants-claimants are entitled for a sum of ₹1,00,000/- on account of loss of love and affection.

6. As far as the contention of learned counsel for the appellants that deceased-Kanta Rani was earning ₹40,000/- per month, there is nothing on the record to show that she was earning ₹40,000/-. In fact, the income-tax report furnished by the claimants is merely a marked document and has not been proved in accordance with the evidence act. The Tribunal has assessed the income of the deceased to the tune of ₹4000/-, who is a house maker and also doing stitching work. It is well settled proposition of law that while assessing the services of a house-wife, narrow meaning should not be given to the services rendered by her and it should be construed broadly. She is a full time working house-wife. She is a Mom, a Wife, a Daughter and a Daughter – in – law. She is an alarm clock, a cook, a maid, a teacher for the children, a waitress, a nurse, a nanny, a counselor and a comforter. She does not get holidays, medical leave and works throughout the day and night. Thus, taking into consideration such services rendered by a house wife, assessment of a sum of ₹4000/- by ld. Tribunal can be termed to be on lower side and it deserves to be enhanced to the tune of ₹6000/-. Multiplier of 13 has been rightly applied by ld. Tribunal. The annual dependency works out to ₹9,36,000/- (6000x12x13). As such, the appellants-claimants are entitled to a total compensation of ₹13,97,658/-. Thus, the appellants-claimants shall be entitled to enhanced compensation to the tune of ₹4,12,000/-, in addition to the amount already awarded by the

ld. Tribunal i.e. ₹9,85,658/-.

7. In the light of what has been discussed above, the instant appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹4,12,000/- in addition to the compensation already awarded by ld. Tribunal. Respondents are 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 @ ₹7.5% as awarded by the ld. Tribunal, from the date of filing of claim petition till actual realization. No order as to costs.

May 23, 2017 **(JASPAL SINGH)**
sonika **JUDGE**

Whether speaking/reasoned: Yes

Whether reportable: Yes