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

FAO No.2520 of 2016 (O&M)
Date of decision: 20.04.2018

Usha Rani and others

….Appellants

Versus

Ajay Kumar and others

….Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mrs. Gurjit Kaur Sandhu, Advocate,
for Mr. H.S. Sandhu, Advocate,
for the appellants.

Mr. Vinod Gupta, Advocate,
for respondent No.3-Insurance Company.

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RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 23.11.2015, on account of death of Shubham Garg in a motor vehicular accident which took place on 06.03.2015. Appellant No.1 is mother, appellant No.2 is father and appellant No. 3 is sister of deceased Shubham Garg.

Brief facts of the case are that on 06.03.2015, Shubham Garg (since deceased) was going from village Kamoda towards village Bhor Saidan via Yadav Dera Jyotisar while travelling as pillion rider on a motorcycle bearing registration No. HR-08-R-3531. The said motorcycle was being driven by Deepak Kumar. At about 03.00 P.M., when they

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reached near Yadav Dera Jyotisar, in the meantime, a car bearing registration No. HR-09-C-1315 being driven by respondent No.1-Ajay Kumar in a rash and negligent manner, came from behind and hit the motorcycle, as a result of which, both the occupants of motorcycle namely Shubham Garg and Deepak Kumar fell down and received multiple, serious and grievous injuries. They were shifted to LNJP Hospital, Kurukshetra. Unfortunately, Shubham Garg succumbed to the injuries. With regard to the incident, FIR No.54 dated 06.03.2015, under Sections 279/304-A IPC was registered at Police Station, Kurukshetra University, Kurukshetra against respondent No.1. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of the rash and negligent driving of offending vehicle by its driver-respondent No.1 and thus, returned finding on issue No.1 in favour of the claimants. This finding was given on the basis of deposition of Deepak Kumar (PW-2), who was an eye witness of the accident. Claimants have also proved on record copy of FIR Ex.P1, report under Section 173 Cr.P.C. Ex.P2, charge-sheet Ex.P5 and postmortem report of deceased as Ex.P6.

The Tribunal has further observed that claimant-appellant No.2 (father of deceased) was running a *kiryana* shop and claimant-appellant No.3 (sister of deceased) was a student of B.Sc. IInd year and was dependent upon her father i.e. appellant No.2. Therefore, both claimant Nos. 2 and 3 were not dependent upon the deceased. Only claimant No.1 was held entitled to get compensation on account of death of her son

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Shubham Garg.

In the absence of any documentary proof, income of the deceased as assessed at Rs.10,200/- per month as that of an unskilled labourer as per minimum wages prevalent at that time. In this income, 50% addition was made on account of future prospects. By doing so, total income came to Rs.15,300/- (Rs.10,200/- + Rs.5100/-). Out of this income, 50% amount was deducted towards personal expenses of deceased, which came to Rs.7650/- per month i.e. Rs.91,800/- per annum. The deceased was 19 years of age at the time of death/accident. Accordingly, multiplier of 18 was applied. After applying the multiplier of 18, dependency of claimant No.1 came to Rs.16,52,400/- (Rs.91,800/- x 18). In addition to it, Rs.25,000/- were awarded to claimant No.1 on account of transportation of dead body, funeral and last rites of deceased, Rs.1,00,000/- towards loss of estate and Rs.50,000/- towards love and affection. Hence, the claimant No.1 was found entitled to total compensation of Rs.18,27,400/- along with interest at the rate of 9% per annum from the date of filing of petition till actual realization. Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. After going through the impugned Award, this Court is of the view that the compensation, on all the heads, has been rightly awarded by the Tribunal keeping in view the law prevalent at that time and no ground is made out to enhance the same. The evidence has been appreciated in the right

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perspective.

Resultantly, finding no merits, the present appeal stands dismissed.

(RITU BAHRI)
JUDGE

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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