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

**FAO No. 817 of 2014 (O&M)
Date of Decision : November 28, 2018**

Vishwanath Mahato and another

....Appellants

Versus

Awadesh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rakesh Sharma, Advocate for
Mr. Vikas Singh, Advocate
for the appellants.

Mr. Harsh Aggarwal, Advocate for
Mr. Aseem Aggarwal, Advocate
for respondent No. 3.

SURINDER GUPTA, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims tribunal, Karnal (later referred to as 'the tribunal') for death of Guddu Mahto (later referred to as 'the deceased') son of appellants-claimants, in a motor vehicle accident on 21.11.2010 with Canter bearing registration no. DL-1LD-7201.

2. As the only issue involved in this appeal is enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. The deceased was 19 years old and he was unmarried. As per the claimants, he was working as a painter in ABC System Limited Company and was earning ₹6,000/- per month but no evidence/proof regarding income of deceased was proved on file.

4. The tribunal vide award dated 17.10.2013 awarded compensation of ₹7,05,400/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Gudu Mahto
(ii)	Age of the deceased	19 years
(iii)	Monthly income of the deceased as assessed by the tribunal	₹4200
(iv)	50% addition in income towards future prospects.	₹4200 + ₹2100 = ₹6300 per month
(v)	½ deduction towards personal expenses	(₹6300 - ₹3150) = ₹3150 per month
(vi)	Multiplier applied 18	(₹3150X12X18) = ₹6,80,400/-
(vii)	Funeral expenses	₹25,000/-
Total		**₹7,05,400/-**

5. Learned counsel for the appellants submits that deceased was a young boy earning ₹6,000/- per month but the tribunal has taken his monthly income as ₹4200/-, which is less than minimum wages prescribed for a skilled worker. The tribunal has also not allowed any compensation towards loss of estate to the appellants/claimants.

6. Learned counsel for the respondents has argued that the tribunal has allowed 50% addition in income of the deceased towards future prospects which is to be reduced to 40% as per the law settled by Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***. The claimants are entitled to ₹15,000/- towards funeral expenses instead of ₹25,000/- as awarded by the tribunal. As the appellants have not produced any evidence regarding income of deceased, the tribunal has rightly assessed his income as ₹4200/- per month.

7. As per the claimants/appellants, deceased was a painter, as such,

income of the deceased is to be equated with skilled worker. The minimum wages prescribed for skilled worker at the time of death of deceased by the State of Haryana were ₹4604/- per month. As such, income of the deceased is assessed as ₹4,600/-. The deceased was 19 years of age at the time of his death, as such, in view of the law laid down in case of ***National Insurance Company Limited Vs. Pranay Sethi and others(supra),*** claimants are allowed addition of 40% in the income of the deceased towards future prospects and ₹15,000/- each for loss of estate and funeral expenses.

As a sequel of my above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased	₹4600 per month
(ii)	40% of above (i) to be added as future prospects	(₹4600+₹1840)= ₹6440 per month
(iii)	Deduction of 1/4th towards personal expenses of the deceased	(₹6440-₹3220)= ₹3220 per month
(iv)	Compensation after multiplier of 18 is applied	(₹3220X12X18)= ₹695520
(v)	Loss of estate	₹15000
(vi)	Funeral expenses	₹15000
Total		₹725520/-

The appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹7,05,400/- to ₹725520/- for death of Guddu Mahto. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realisation. The amount of enhanced compensation shall be apportioned between the appellants-claimants in equal shares. Respondent-insurance company will deposit the shares of appellants-claimants in their bank accounts or pay the same through demand drafts. The claimants shall also be entitled to costs of this appeal. In case of demise of any of above claimant(s) before his/her share of compensation is disbursed, the same shall be given to other surviving claimant.

November 28, 2018 **(SURINDER GUPTA)**
Sachin M./Jyoti-II **JUDGE**

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