IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.215

FAO No.2848 of 2001
Date of decision: 06.02.2019

Parveen Kaur and others ....Appellants

versus

Jaspal Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. N.S. Gill, Advocate for
Mr. Munish Gupta, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent-Insurance Company.

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DEEPAK SIBAL, J. (Oral)

The appellants/claimants seek enhancement in the compensation awarded to them by the Motor Accident Claims Tribunal, Rupnagar (for short – the Tribunal).

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that on 04.11.1998 Gurmeet Singh was riding pillion on a Scooter which was struck by a truck bearing registration No.MP-23D-8435 (for short – the offending vehicle), as a result of which Gurmeet Singh died at the spot. The appellants filed a claim petition under Section 166 of the Motors Vehicle Act, 1988, before the Tribunal, in which petition, after concluding that the offending vehicle was being driven in a rash and negligent manner, the Tribunal went on to assess the payable compensation, the enhancement of which is sought through the present appeal.

Learned counsel for the parties have been heard.

At the time of his death, which was caused by the accident in question deceased Gurmeet Singh was serving the Indian Army and his proven basic monthly salary was Rs.3320/-. On the presumptuous ground that on the death of Gurmeet Singh, the claimants would have got pensionary benefits, the Tribunal calculated the compensation payable to the appellants by reducing the aforesaid amount from Rs.3320 to Rs.1500/-. Future prospects were also not granted.

As per law settled by the Hon'ble Apex Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another**, **(2009) 6 SCC 121,** the above deduction qua pensionary benefits could have not been made by the Tribunal. Resultantly, the compensation payable to the appellant is ordered to be assessed after taking the deceased's monthly salary to be Rs.3320/-. Since Rs.3320/- was admittedly the deceased's basic salary which did not include any allowance, no cut is required to be applied towards personal expenses being incurred by the deceased.

The Tribunal further erred is not adding future prospects to the assessed income of the deceased. Since the deceased was a Government employee future prospects were required to be added @ 50%.

Since the deceased was 23 years of age, the Tribunal wrongly applied the multiplier of 11 to the deceased's assessed income as multiplier of 18 was required to be applied.

Rs.70,000 should also have been granted by the Tribunal under the conventional heads like funeral expenses etc.

In view of the above, the order of the Tribunal is modified to the extent that the monthly income of the deceased is assessed as Rs.3320/-;

multiplier of 18 instead of 11 is applied on the assessed income of the deceased; 50% future prospects are added to the assessed income of the deceased and Rs.70,000/- under the conventional heads are also granted.

The appellants are also held entitled to interest at the rate of 6.5% per annum on the enhanced amount of compensation from the date of filing of the claim petition by them before the Tribunal till the date of its realization.

The appeal is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

February 06, 2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No