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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-802-2002 (O&M)

Date of decision : 7.5.2019

Roshni and another

.....Appellants

Versus

Ramesh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Sandeep Kotla, Advocate for the appellants.

Mr. Gopal Mittal, Advocate for Insurance Company.

KULDIP SINGH, J.

Claimants-appellants namely-Roshni and Mamta are the major and minor daughters of Dilbagh Singh (deceased) who died in a motor vehicle accident on 25.5.1996. The Motor Accident Claims Tribunal, (for short 'the Tribunal') Hisar while noting that the mother of the claimants-appellants did not file the claim petition, took the income of the deceased as Rs. 2,000/- per month. The deceased was 30 years of age at the time of accident. After deducting 1/3rd, the dependency was calculated to be Rs. 1300/- and multiplier of 18 was applied. The compensation was calculated at Rs. 2,80,800/- and rounded upto Rs. 2,81,000/-. Rs. 5,000/- were granted towards cremation and last rites of the deceased. Hence, the total compensation of Rs. 2,86,000/- was awarded to the claimants-appellants.

The only plea made by learned counsel for claimants-appellants is that the future prospects were not allowed by the Tribunal and the compensation awarded under the conventional heads is inadequate.

Admittedly, the future prospects were to be allowed and the compensation under the conventional heads is also to be allowed. Since the deceased was self employed and was 30 years of age, his 40% income is to be added on account of future prospects which comes to Rs. 800/- and the total income comes to Rs. 2800/- and after deducting the 1/3rd, personal expenses comes to Rs. 933/- and dependency comes to Rs. 1867/-. Since the deceased was 30 years of age, multiplier of 17 has to be applied, the total amount of compensation comes to Rs. 3,80,868/-. Rs. 30,000/- for funeral expenses and last rites are allowed. In view of the authority of Hon'ble Supreme Court contained in '*Magma General Insurance Company Ltd. vs. Nanu Ram @ Churu Ram*', 2018(4) RCR (Civil) 333, Rs. 40,000/- is awarded to both the claimants-appellants towards loss of love and affection and consortium which comes to Rs. 80,000/-. Hence, the total amount comes to 4,90,868/-.

In view of the foregoing discussions, appeal is allowed. The impugned award passed by Motor Accident Claims Tribunal, Hisar on 3.4.2001 is set aside. Respondent-Insurance Company is ordered to pay an amount of Rs. 4,90,868/- as compensation to the claimants-appellants along with interest @ 7% per annum from the date of filing of claim petition till payment on the enhanced compensation.

Appeal stands allowed accordingly.

(KULDIP SINGH)
JUDGE

7.5.2019

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