IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 221 FAO-7429-2017

Date of decision : 01.02.2019

Sita Devi and another ..... Appellants

VERSUS

Rajesh Kumar and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. R. K. Saini, Advocate, for the appellants.

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DEEPAK SIBAL, J. (ORAL)

Through the present appeal the appellants/claimants seek enhancement in the compensation awarded by the Motor Accident Claims Tribunal, Karnal (for short, the Tribunal).

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that on 22.05.2014, at about 12 noon, Montu @ Mantu Thakur was going towards Indri and when he reached near Sirsa Branch on Indri-Ladwa road, an accident took place between two trucks. In such accident the side of one of the trucks struck him as a result of which he received multiple injuries and later died on the way to the hospital. A FIR was lodged against the driver of the offending truck and a claim petition under Section 166 of the Motor Vehicles Act, 1988 was also filed. The Tribunal after concluding that Montu had died due to rash and negligent driving of the offending vehicle, assessed the payable compensation, the enhancement of which is sought through the present appeal.

Learned counsel for the appellant has sought enhancement in the awarded compensation only on the ground that the income of the deceased has been assessed on the lower side as there was overwhelming evidence on the record in the form of statement of PW-1 Bharat Bhushan that at the time of his death, Montu was working in M/s Parley Icecream Factory and was earning ₹10,000/- per month. Thus, according to learned counsel for the appellant, the Tribunal erred in assessing the income of the deceased at ₹5,550/- per month.

The afore submission made by learned counsel for the appellant has been considered but no merit in the same is found.

PW-1 Bharat Bhushan deposed before the Tribunal that he was proprietor of M/s Parley Icecream Factory; that the deceased-Montu was working there and was paid ₹10,000/- per month. However, in his cross examination, he admitted that his factory was neither registered under the Employees' State Insurance Act, 1948 nor under the The Employees' Provident Funds Act, 1952. He further admitted that he had no licence or registration to run his factory from the Industries or Sales Department of the State or in fact any other department of the Government. His income tax returns were not produced. He also failed to produce any attendance, wages or salary register as also any account books of the factory.

The claimants also did not produce any document including the deceased's bank statement or his income tax returns which would have showed that the deceased was earning ₹10,000/- per month. The deceased's educational qualification or the post against which he was working were also not specified.

In the absence of the above evidence, no error is found in the Tribunal's award assessing the income of the deceased by treating him to be an unskilled worker.

No other point was urged.

Dismissed.

01.02.2019 [DEEPAK SIBAL]
shamsher JUDGE

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