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

**FAO No.6091 of 2016
Date of decision: 18.07.2019**

Smt. Saroj and another

….Appellants

Versus

Hardeep Rana and others

….Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sumit Gupta, Advocate,
for the appellants.

Mr. D.P. Gupta, Advocate,
for respondent No.3-United India Insurance Company.

Mr. Punit Jain, Advocate,
for respondent No.4-Shri Ram General Insurance Co.

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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, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 28.04.2016, on account of death of Abhimanyu @ Ajay in a motor vehicular accident which took place on 28.12.2012. Appellants are parents of deceased Abhimanyu @ Ajay.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 28.12.2012, at about 7/7.15 p.m., Abhimanyu @ Ajay (since deceased) was coming from village Barota towards village Ghoghripur on a bicycle. When he reached on the Ghoghripur-Barota Road, District Karnal, in the meantime, a car bearing registration No. HR-06-M-5821, being driven by respondent No.1-Hardeep Rana in a rash and negligent manner, came from behind and struck against the bicycle of Abhimanyu @ Ajay, as a result of which, he received multiple serious and grievous injuries and died at the spot. With regard to the accident, FIR No.475 dated 28.12.2012, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Madhuban, District Karnal. 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 rash and negligent driving of offending vehicle by respondent No.1, as a result of which Abhimanyu @ Ajay has died and thus, returned finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Inder Singh (PW-2), who was an eye witness of the accident and on whose statement FIR Ex.P2 was registered. Further, the claimants have proved on record copy of postmortem report Ex.P1 and certified copy of report under Section 173 Cr.P.C. Ex.P3.

In the absence of any documentary proof, the Tribunal has assessed monthly income of the deceased as Rs.6600/- per month. In this income 50% addition was made on account of future prospects, which came to Rs.9900/- per month (6600 + 3300). Out of this income, one-half amount was deducted towards personal expenses of the deceased. By doing so, remaining income came to Rs.4950/- per month i.e. Rs.59,400/- per annum, out of which 10% deduction was made towards the income tax. Accordingly, the total amount came to Rs.53,460/- per annum. As per postmortem report Ex.P1, deceased was 24 years of age at the time of accident/death. Multiplier of 18 was applied by the Tribunal. After applying the multiplier of 18, dependency of claimants (parents) came to Rs.9,62,280/- (53,460 x 18). In addition to it, Rs.1,00,000/- were awarded on account of love and affection and Rs.25,000/- as funeral expenses. Hence, appellant-claimants were found entitled to total compensation of Rs.10,87,280/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

REASSESSED COMPENSATION

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. Parties are not in dispute with respect to the findings given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending vehicle by respondent No.1. The only argument raised by learned counsel for claimant-appellants is that deduction of 10% from the income of deceased has wrongly been made by the Tribunal.

Since, income of deceased has been assessed as Rs.6600/- per month, there should be no deduction in this income towards income tax. Hence, in the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in ***Sarla Verma and others vs. Delhi Transport Corporation and another***, 2009 (3) RCR (Civil) Page 77, as under:-

Sr. No.	**HEADS**	**CALCULATIONS**
(i)	Income	Rs.6600/- per month

(ii)	50% of (i) above to be added as future prospects	6600 + 3300 = Rs.9900/-
(iii)	1/2 of (ii) above is deducted as personal expenses of the deceased	9900 – 4950 = Rs.4950/-
(iv)	Compensation after multiplier of 18 is applied	Rs.4950/- x 12 x 18 = Rs.10,69,200/-
(v)	Compensation on account of love and affection	Rs.1,00,000/-
(vi)	Funeral expenses	Rs.25,000/-
(vii)	**TOTAL COMPENSATION AWARDED**	**Rs.11,94,200/-**
(viii)	**Enhanced amount of compensation**	**Rs.11,94,200 – 10,87,280 = Rs.1,06,920/-**

The enhanced amount of compensation of **Rs.1,06,920/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9 per annum from the date of filing of the claim petition, till its realization keeping in view the judgment passed by Hon'ble the Supreme Court in ***Dara Singh @ Dhara Banjara vs. Shyam Singh Verma & others,*** Civil Appeal No.4528 of 2019 (arising out of SLP (C) No.5720 of 2019), decided on 01.05.2019. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

(RITU BAHRI)
JUDGE

18.07.2019
ajp

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