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

**FAO 1130 of 2018 (O&M)**

**Date of decision: November 16,2022**

**Omvati and others**

**………..Appellants**

**Vs.**

**Padamvir Singh and others**

**………..Respondents**

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Vijay Lath,Advocate for the appellants/claimants

Service upon respondents 1 & 2 dispensed with vide order Dated 4.4.2022.

Mr. Vikas Mohan Gupta,Advocate for the sole contesting respondent no.3 -Insurance Company

**Nidhi Gupta,J.**

This appeal has been preferred by the claimants seeking enhancement of compensation awarded to them by the Motor Accident Claims Tribunal, Rupnagar (for short 'the Tribunal') vide Award dated 4.10.2018 passed in MACT Case No.324/ 13.7.2016, on account of death of Satya Parkash in a motor vehicle accident that took place on 8.5.2016. Claimants/appellants are widow, two minor sons and mother of the deceased Satya Parkash. Before the Tribunal it was case of the claimants that on 8.5.2016 deceased was coming towards his house from village Akbarpur on foot when at about 10 a.m., in the area of Ambala Brick Kiln, tractor bearing registration No. PB-12-Q-3946, being driven in a rash and negligent manner and at high speed by respondent no.1-Padamvir Singh came from Village Chore Miani side and struck against the deceased with high impact due to which he fell down and received multiple injuries. Satya Parkash was immediately taken to Civil Hospital, Rupnagar from where he was referred to PGI Chandigarh and he succumbed to his injuries there on 24.5.2016. It was case of the claimants that deceased Satya Parkash, sole bread winner of the family, was working as a Mason and his monthly earning was Rs.20,000/-.

The Tribunal, on considering the evidence on record concluded that the deceased Satya Prakash died due to injuries received by him in the accident that took place on 8.5.2016 due to rash and negligent driving of Respondent no. 1. However, since claimants led no evidence to prove the monthly earning of the deceased, the learned Tribunal assessed the income of the deceased to be that of a labourer. Hence his income, as per rates of minimum wages w.e.f. 1.3.2015 under the Labour Law was assessed to be Rs.6847.75 which was further rounded off to Rs.7000/- per month and thus annual dependency was calculated as Rs.84,000/-. Following the law laid down by Hon'ble Supreme Court in **Smt.Sarla Verma and others v Delhi Transport Corporation and anr, 2009 (3) RCR (Civil) 77**, the learned Tribunal after deducting 1/4th income towards personal expenses of the deceased, assessed the annual dependency of the claimants to be Rs.63,000/- per annum. The age of the deceased at the time of his death was 28 years so multiplier of 17 was applied and thus total compensation awarded was Rs.10,71,000/-. Another sum of Rs.70,000/- was awarded towards conventional heads for loss of estate, loss of consortium and funeral expenses. Further the claimants were also held entitled to a sum of Rs.33207/- incurred by them on the treatment of the deceased. Thus, the total compensation awarded was Rs.10,71,000+ 70,000/-+ 33207/- = Rs. 11,74,207/- (rounded off to Rs.11,74,500/-) alongwith interest @ 7% from the date of filing of the claim petition till actual realization. It was further directed that loss of consortium of Rs.40,000/- will be disbursed to claimant-widow whereas the remaining amount of compensation was directed to be disbursed to the claimants as under:-

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|---|---|
| 1. Claimant no.1 Omvati (widow) | 60% |
| 2. Claimant no.2 Harkishan (minor) | 15% |
| 3. Claimant no.3 Kalash (minor) | 15% |
| 4. Claimant no.4 Vidya Devi (mother) | 10% |

The driver, owner and insurer of the offending vehicles were held jointly and severally liable to pay the compensation.

Learned counsel for the claimants/appellants argued that enhancement on account of future prospect should be awarded to the claimants. It was further submitted that there are four claimants in all whereas consortium has only been awarded to the claimant wife and not to two minor children or the aged mother of the deceased. It is accordingly prayed that consortium @ 44,000/- be paid to each of them.

It is then submitted that minimum wage of Mason is Rs.8890/- but the Tribunal has incorrectly taken the same as Rs.7000/-.

Learned counsel for the respondent Insurance company appears and files his memo of appearance, which is taken on record. He prays for dismissal of the appeal by stating that deceased was not working as a Mason but was an unskilled labourer and therefore, as per Notification dated 1.3.2016 the deceased was entitled to wages @ Rs.7210/- per month.

Heard learned counsel for the parties.

There is no dispute regarding the fact that the death of Satya Parkash was due to the motor vehicle accident which took place on 8.5.2016 due to rash and negligent driving of tractor bearing registration No. PB-12-Q-3946 by respondent no.1-Padamvir Singh. Admittedly, as per table of "adjusted minimum rates of wages" appended to the Notification No. ST/24931 dated 11.0.2017 issued by the office of Labour Commissioner, Punjab, Chandigarh, w.e.f. 1.3.2016 monthly wages of unskilled labour was fixed at Rs.7210.52 from which 1/4$^{th}$ deduction is to be made keeping in view the number of claimants and multiplier of 17 will be applicable as the deceased was 28 years of age. The appellants are further entitled to a sum of Rs.44,000/- as spousal consortium, Rs.88,000/- as parental consortium, Rs.44,000/- as filial consortium, Rs. 16500/- towards funeral expenses, Rs.16,500/- as loss of estate and Rs.32,207/- as medical expenses. Accordingly, the reworked compensation is as follows:-

| Head | Compensation awarded in the present appeal (Rupees) |
|---|---|
| Compensation on account of dependency of the claimants in view of monthly income of deceased and future prospect - Rs.7210.50 x12 = 86,526/- minus 21,631/- (being 1/4$^{th}$ towards personal expenses) = Rs.64,895/- plus Rs.25958/- toawards future prospect= Rs.90853 x 17 | 15,44,501/- |
| Spousal consortium | 40,000/- |
| Parental consortium | 80,000/- |
| Filial consortium | 40,000/- |
| Funeral expenses | 15000/- |
| Loss of estate | 15000/- |
| Medical expenses | 32,207/- |
| Grand total of reworked compensation | 17,66,708/- |
| Less awarded by the Tribunal | 11,74,500/- |
| Remaining payable enhanced compensation | 5,92,208/-. |

The claimants/appellants shall be entitled to interest @ 7% per annum on the enhanced amount from the date of filing of the claim petition till realization. Ratio of apportionment as well as manner of disbursement amongst the claimants, as determined by the Tribunal shall remain the same.

Allowed in the above terms.

Pending application(s),if any also stand disposed of.

**(Nidhi Gupta)**
**Judge**

**November 16,2022.**
Joshi

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