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

115

**FAO-2269-2016
Date of decision : 02.12.2024**

Pooja and others ...... Appellants

versus

Hari Singh and others ...... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Arjun Kumar Gupta, Advocate for
Mr. Rakesh Gupta, Advocate
for the appellants.

Service upon respondents No.1 to 3
dispensed with vide order dated 30.11.2018.

Mr. Vinod Gupta, Advocate
for respondent No.4.

Mr. Hardeep S. Dhillon, Advocate for
Mr. Arjun Attri, Advocate
for respondents No.5 to 8.

*****

<u>PANKAJ JAIN, J. (Oral)</u>

1. Claimants are in appeal seeking modification of the award passed by MACT, Patiala dated 03.12.2015 under Section 166 of the Motor Vehicles Act in MACP No.12 of 21.05.2015.

2. Claimants filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of their mother Charno in a motor vehicular accident. It was claimed that on 11.04.2015, Charno-deceased alongwith two others boarded PRTC bus. Their belongings were kept on the roof of the bus. While Charno was removing her belongings from the carrier on the roof of the bus,

conductor blew whistle. The driver moved the bus. As a consequence, Charno fell down from the roof and scummed to the injuries suffered on her way to hospital. Issue with respect to rash and negligent driving of the respondents stands answered in favour of the claimants. The issue in the present appeal for compensation only.

3. The claimants claimed that Charno was 40 years of age and was engaged in the business of chajj making. She died while downloading bundles of chajj from the roof of the bus. Tribunal held that there was no documentary evidence to show that Charno was earning Rs.13,000/- per month as claimed by the claimants. Her monthly income was assessed @ Rs.4,000/- per month and compensation was computed accordingly.

4. The income of Charno is in dispute. Though, the Tribunal is right in holding that there is no documentary evidence to prove income of Charno, however, it has come on record that in terms of contents of FIR proved on record as Ex.CW-1/B that Charno alongwith other two women were travelling alongwith bundles of chajj which is a domestic item used in every house for cleaning grains like wheat, rice etc. Evidently, Charno was transporting bundles of chajj produced by her. Though, the extent of her income has not come on record, but it stands proved that she was in fact a working lady running her own domestic industry. Thus, to access her income as an unskilled worker will amount to undermining her skill. Apart from being a skillful artisan, she was also a homemaker. This Court had an occasion to deal with income of a homemaker earlier also. This Court in the case of **United India Insurance Co. Ltd vs. Sube Singh and others, passed in**

<u>FAO No. 218-2014</u> while dealing with the issue of income of homemaker for the purpose of compensation under MACT held as under:-

> "while dismissing the appeal filed by the Insurance Company against the award of the Tribunal wherein the Tribunal took the income of a house wife at Rs.9000/- per month, held that to tag a house wife as skilled labour alone does not do complete justice to her multifarious role as home manager. House wife is something more than mere skilled worker and it would not be unreasonable to estimate contribution of deceased at higher figure. The SLP filed against the said judgment has also been dismissed.
>
> 12. Thus, income of the deceased, who was a home-maker has to be assessed at Rs.10,000/- per month. An element of 40% future prospects needs to be added. Thus, in the considered opinion of this Court even if the compensation awarded by the Tribunal is recalculated it would not make substantial difference in the same quantitatively."

5. In view of above, this Court finds that it will be in the interest of justice that the income of the deceased Charno be assessed @ Rs.12,000/- per month. Keeping in view her industrious activities in addition to the duties she was discharging as homemaker, future prospects of 40% need to be added. Loss of income needs to be calculated applying 1/4th deduction. Multiplier of 15 has been rightly awarded. Apart from the aforesaid, claimants are also entitled for loss of consortium @ Rs.48,000/- each. Rs.1,00,000/- awarded under the head of loss of love and affection needs to be set off against the aforesaid amount awarded under the head of loss of consortium. Rs.18,000/- each

is also awarded under the heads of funeral expenses and loss of estate. Rate of interest as awarded by the Tribunal is retained.

6. Appeal is disposed off, accordingly.

(PANKAJ JAIN)
JUDGE

02.12.2024
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No