

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1005 of 1995 (O&M)
Date of Decision:23.09.2015

Khem Chand and another

....Appellants

Versus

Mohd. Ilyas alias Iliyas and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Sunil Rana, Advocate and
Mr. Amit Jain, Advocate for the appellants.

None for the respondents.

NAVITA SINGH, J.

1. This appeal is preferred against the award passed by Motor Accident Claims Tribunal, Gurgaon (Tribunal for short) on 6.12.1994 granting compensation to the tune of Rs.45,000/- to the appellants. The appellants were compensated for the death of their 19 years old son who died in a motor vehicle accident which took place on 1.10.1992. Finding the compensation inadequate, they came up in appeal.

2. The claim was lodged on the averments that Satish died as a result of the above said accident which took place near Sant Nirankari College, Sohna-Nuh bye pass road, Sohna when he was standing near the gate of college and was hit by truck (Tata 407) No.HRW-952, which was being driven by respondent No.1 in a rash and negligent manner.

3. Counsel for the appellants contended that the deceased was 19 years old and was to complete his studies shortly if he had not died and would have earned for his family. Notional income of the deceased was not assessed by the Tribunal and also the version of his father Khem Chand that his son was earning something between Rs.2000/- and Rs.2500/- per month by running a

shop of spare parts was not believed. It was contended that since the evidence of Khem Chand was un-rebutted, the same should have not been believed.

4. So far as the income from any spare parts shop is concerned, the statement of father of the deceased is not creditworthy because in 1992 deceased could not have been earning so much from a shop which he could not attend full time because he was a student. Also no detail was given as to what was the name of the shop and where it was located. Merely by mentioning that he was earning more than Rs.2000/- per month 23 years earlier, the income of Satish cannot be taken to be to that effect.

5. In any case, since he was 18/19 years old, some notional income should have been assessed and compensation granted accordingly. Thus, taking the income of the deceased to be Rs.600/- per month in the year 1992, his annual income would come to Rs.7200/-. Half of the same would be deducted towards expenditure on himself as he was a bachelor. The income for the purpose of compensation would, therefore, be Rs.3600/- per annum. After applying the multiplier of 18, compensation comes to Rs.64,800/-. Over and above the said amount, an amount of Rs.5000/- is granted for funeral expenses and Rs.3000/- for transportation. The rate of interest on the enhanced amount shall be 6% per annum.

6. The appeal is allowed in the above terms.

**(NAVITA SINGH)
JUDGE**

23.09.2015
Ishwar

Whether to be referred to reporter: No