

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

F.A.O. No. 146 of 2007

Date of decision : January 20, 2015

Jagnesh Sharma and others

....Appellants

versus

Amarjit Singh

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Yogesh Saini, Advocate for
Mr. Pritam Saini, Advocate, for the appellant

Respondent ex-parte

Fateh Deep Singh, J. (Oral)

The claimants aggrieved over the impugned award dated 1.9.2006 of learned Motor Accident Claims Tribunal, Ambala over the meagerness of the compensation so awarded amounting to Rs 1,54,000/- regarding death of deceased Jagdish Chander has come up in this appeal.

Inspite of due notice, none has put in appearance on behalf of the respondent.

Heard Mr. Yogesh Saini, Advocate for Mr. Pritam Saini, Advocate, for the appellants and perused the records.

Since as has been pointed out that there is no challenge to

findings on issue no. 1 whereby the learned Tribunal has held that respondent-driver by his rash and negligent act of driving the offending vehicle tractor-trolley No. PB-11-3202 has caused accident on 29.10.2005 near Polytechnic Chowk, Ambala City resulting in death of deceased Jagdish Chander.

The lone contentious issue is over the quantum of compensation. It is claimed that the deceased at the time of his death was 63 years which has been held by the Tribunal to be 65 years. The inter-se relationship shows that Jagnesh Sharma is the widow, Waris Sharma and Sunanda Sharma are the son and daughter whereas Mohini Devi Sharma is the mother of the deceased. The claimants have claimed that deceased was running a grocery shop and though claimed was earning Rs 10000/- per month besides pension as well as income from the grocery shop. Issue no. 2 lay heavily upon the claimants to prove annual dependency upon the deceased. To the very query of the Court, counsel for the appellants could not point out any documentary evidence led before the Tribunal regarding pensionary benefits of the deceased. It has been rightly concluded even by the Tribunal and it has also held that there is no documentary proof or corroboration on the earnings from the alleged grocery shop. The learned Tribunal has correctly appreciated the evidence and arrived at the conclusion that the deceased in all likelihood must be earning Rs 3600/- per

month. The contention of counsel for the appellants that deduction of 1/3rd has been made certainly is on the higher side in view of **New India Assurance Company Limited vs. Gopali and others, 2012 (3) RCR (Civil) 818** having regard to the number of dependents and the socio economic status of the family 1/4th needs to be deducted and therefore, the deceased in all likelihood must be contributing Rs 2700/- per month to the house-hold and thus, annual dependency comes to Rs 32,400/-. Keeping in view the age of the deceased and relative ages of the claimants, the learned Tribunal has applied multiplier of 5 which as per the settled position of law laid down in *Sarla Verma and others versus Delhi Transport Corporation and another, 2009 (6) SCC 121* ought to be 7 and therefore, dependency upon the deceased of the claimants comes to Rs 2,26,800/-. The learned Tribunal has lost sight of the fact that the family must have spent money on the last rites and ceremonies of the deceased, the widow has lost her husband, children their father, mother a son, thus a source of love and affection for all of them and under these conventional heads by some amount of guess work and hypothetical calculations a sum of Rs 1,50,000/- needs to be awarded. Thus, total compensation comes to Rs 3,76,800/- (Rupees three lacs seventy six thousand and eight hundred only). Keeping in view the relative ages and requirements of the claimants and keeping in view their future needs, the widow and the two children are entitled to 30%

each of this compensation amount whereas widow mother is entitled to 10% of the amount. Rest of the stipulations need not be disturbed. The claimants shall also be entitled to interest @ 7.5% per annum from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted.

In the light of the same, the impugned award is modified and the appeal is allowed in the aforesaid terms.

January 20, 2015
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(Fateh Deep Singh)
Judge