

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2319 of 2014 (O&M)
Date of Decision: 09.09.2015

Sukhjinder Kaur and Others

.....Appellants

Vs.

Kewal Krishan Bansal and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.J.S.Cooner, Advocate for the appellants.

Mr.Maninder Jit Singh, Advocate for respondent No.1.

Mr.D.R.Bansal, Advocate for respondent No.3.

RITU BAHRI, J. (ORAL)

Appellants have come up in the appeal against the Award of the Tribunal dated 17.09.2013 passed by learned Motor Accident Claims Tribunal, Moga, (hereinafter referred to as 'the Tribunal') on account of the death of Jagsir Singh, husband of the appellant-claimant No.1 and father of appellants No.2 and 3 and son of respondents No.4 and 5.

On 27.09.2011, Jagsir Singh (since deceased) was going from his village on his motorcycle No.PB-29P-6740 to Bathinda to meet his in-laws. He was driving his motorcycle on the correct left hand side of the road at a moderate speed. At about 7:30 p.m., when he was short of 1 kilometer from Bus Stand, Goneana Mandi on Kot Kapura to Bathinda via Bajakhana Road, a Tata Truck No.PB-03G-6741 was standing on the metalled portion of the road with its face towards Bathinda side. Nothing was placed in and around the truck to suggest the road users the truck was standing on the road. Even no parking lights, indicators were on in the truck. Jagsir Singh could not notice the said truck on

motorcycle stuck against right rear side of stationery truck. As a result of he suffered multiple, simple and grievous injuries. He was admitted to different hospitals from time to time but ultimately he succumbed to his injuries and died on 04.10.2011.

The learned Tribunal after framing the issue No.1 in favour of the claimant came to the conclusion that the version of DDR Ex.P1 was taken to be correct and the deposition of PW2 Gurdeep Singh which was not rebutted by the respondents. Driver Pawan Kumar as PW-1 had submitted in his cross-examination that on 27.09.2011, motorcycle in question met with an accident with their truck bearing registration No.6741 and further stated that he was not present at the spot. From the perusal of the copy of DDR No.123 dated 04.10.2011, Ex.P1, the truck was driven by respondent No.2-Pawan Kumar driver of the truck. Hence, the learned Tribunal decided this issued in favour of the claimants and against the respondents.

On the question of compensation, age of the deceased was 26 years at the time of accident and the petition filed under Section 163 of the Motor Vehicles Act, the compensation was required to be fixed as per 2nd Schedule under Section 163 A of Motor Vehicles Act, 1988. However, notional income of the deceased was assessed at Rs.3,000/- and a cut of 1/4th was imposed and multiplier of 17 has been applied in view of the judgment in a case of ***Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009 ACJ 1298***. The compensation has been assessed at Rs.4,59,000/-. Apart from this Rs.10,000/- on account of funeral expenses and last rites, Rs.10,000/- on account of consortium to claimant No.1 and Rs.75,970/-on account of medical expenses were awarded. In this way, total compensation of the aforesaid heads comes to Rs.5,54,970/-.

learned Tribunal has awarded Rs.75,970/-on account of medical expenses whereas, Rs.15,000/- should have been awarded on this account as per 2nd Schedule under Section 163 A of Motor Vehicles Act, 1988.

Since, the Tribunal has already awarded compensation beyond the scope of 2nd Schedule under Section 163-A of Motor Vehicles Act, 1988, there is no ground is made out to interfere in its award and the appeal is accordingly, dismissed.

(RITU BAHRI)
JUDGE

09.09.2015
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