IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO No.3447 of 2015 (O&M)

Ministry of Finance Customs and Central Excise Commissioner
...Appellant

Versus

Rajesh Kumar and another
...Respondents

(2) FAO No.3455 of 2015 (O&M)

Ministry of Finance Customs and Central Excise Commissioner
...Appellant

Versus

Kiran Bala and others
...Respondents

Date of Decision: June 29, 2015

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Praveen Chander Goyal, Advocate
Senior Panel counsel, Union of India with
Mr.Sanjay Goyal, Advocate
for the appellants.

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INDERJIT SINGH, J.

CM No.10324-CII of 2015 in FAO No.3447 of 2015

For the reasons mentioned in the application, the same is allowed. The delay of 157 days in filing the appeal is condoned.

CM No.10343-CII of 2015 in FAO No.3455 of 2015

For the reasons mentioned in the application, the same is allowed. The delay of 176 days in filing the appeal is condoned.

FAOs No.3447 and 3455 of 2015

Both the above-mentioned FAOs are taken up together for disposal being arisen from same Award in two claim petitions.

Both the above-mentioned FAOs have been filed by Ministry of Finance Customs and Central Excise Commissioner (owner of offending Car bearing registration No.CH-01G1-0602) against the claimants-respondents and Sanjay Kumar, driver of offending car, challenging the impugned Award dated 22.04.2014 passed by learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'Tribunal'), whereby compensation to tune of ₹2,77,716/- has been awarded to claimant-injured Rajesh and ₹10,44,785/- to claimants Kiran Bala, Bhupinder and Jyoti, on account of death of Manoj Kumar.

The brief facts of the case are that on 16.02.2013, Rajesh along with his friend Manoj was going from Sector-9 to Sector-17 Bus Stand on motorcycle bearing registration No.CH-01AF-9984, being driven by Rajesh. When they reached light point of Sector-17/18, at about 11.20 P.M, respondent-driver Sanjay Kumar while driving Ambassador Car being registration No.CH-01G1-0602 (offending car) came and took a sudden turn towards Sector-18 and hit against their motorcycle, as a result of which, both of them sustained injuries. Later on, Manoj succumbed to his injuries. It is alleged that the accident took place due to rash and negligent driving of offending car.

In reply to the claim petition, respondent-driver took the plea that it was claimant who was driving the motorcycle in rash and negligent manner and struck the same against the road divider and sustained injuries. Respondent No.2 (present appellant) admitted the accident.

At the time of arguments, learned counsel for the appellant argued only regarding quantum of the compensation only.

I have heard learned counsel for the appellant and have gone through the record.

As regarding the claim petition filed by Rajesh injured-claimant regarding injuries suffered by him, I find that he has suffered permanent disability to the extent of 10% with limited movement of ankle and knee. He was working as mechanic and it was his case that he was unable to perform his duties effectively. The Tribunal took the permanent disability of whole body as 7.5% and loss was assessed accordingly. The Tribunal, on the basis of evidence, also reached to the conclusion that injured was earning ₹15,000/- per month and accordingly, as per the age of the injured, multiplier of 15 was applied, which has not been contested. Nothing has been argued regarding assessment of the income. The Tribunal has correctly assessed the permanent disability at 7.5% and accordingly calculated the compensation. Nothing has been argued regarding other amounts of compensation i.e. hospitalization charges, special diet, transportation charges and the amount given on account of pain and sufferings. The total compensation of ₹2,77,716/- has been awarded to the claimant-injured Rajesh. In no way, it can be held that the compensation has been excessively given. Therefore, finding no merit in FAO No.3447 of 2015, the same is dismissed.

As regarding the appeal regarding the death of Manoj, I find that nothing has been argued regarding the multiplier. The deceased was working as Peon in Body Zone Fitness and Spa and was earning ₹5750/- per month and was further getting yearly bonus of ₹3500/-. The Tribunal assessed the income accordingly. 50% of the income has been assessed as future prospects as per law and the compensation has been calculated accordingly. The argument of learned counsel for the appellant that income has been assessed wrongly and future prospects have been wrongly given, is having no merit. The compensation awarded on account of death of Manoj, in no way, can be held as excessive. Therefore, finding no merit in FAO No.3455 of 2015, the same is also dismissed.

June 29, 2015 **(INDERJIT SINGH)**
Vgulati **JUDGE**