

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

FAO No.516 of 2000.

Date of Decision: 07.04.2016.

Natho Devi and another

....Appellants.

VERSUS

Manjit Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Nitin Goyal, Advocate for
Mr. Sanjeev Gupta, Advocate for the appellants.

Respondent No.1 exparte vide order dated 06.09.2014.

Mr. T.P.S. Makkar, Advocate for respondent No.2.

Mr. R.K. Bashamboo, Advocate for respondent No.3.

SNEH PRASHAR, J.

By way of this appeal, appellants-Natho Devi and another seek enhancement of compensation awarded to them by Motor Accident Claims Tribunal, Patiala (for short, “the Tribunal”) vide award dated 03.11.1999 passed in MACT Case No.3-T of 1999 on account of death of Arjan Singh (husband of appellant No.1 and father of appellant No.2), who lost his life in a vehicular accident.

The facts are that on 03.05.1997 at about 8:00 a.m., when Arjan Singh (since deceased) followed by his sons Jeet Singh and Baldev Singh was going to Grain Market on his bicycle for selling wheat, his bicycle was hit by a truck bearing registration No.PB-11H-5635 (hereinafter referred as to “the offending truck”) being driven rashly, negligently and in

a high speed by Manjit Singh (respondent No.1). As a result of the accident, Arjan Singh sustained grievous injuries. He was shifted to Rajinder Hospital, Patiala where he succumbed to the injuries.

The claimants-appellants filed a petition seeking compensation under Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) on the ground that the accident occurred entirely due to rash and negligent driving of the offending truck by respondent-Manjit Singh.

The driver, owner and insurer (respondents No.1 to 3) of the offending truck contested the petition. On the basis of the pleadings of the parties, issues were settled. Both the parties adduced evidence to discharge the onus of the issues on them. Considering the evidence available on record and the submissions made on behalf of the parties, learned Tribunal partly allowed the petition and awarded compensation to the tune of Rs.65,000/- alongwith interest at the rate of 10% per annum from the date of filing the petition till realization. Respondents No.1 and 2 were held jointly and severally liable to pay the amount of compensation to the claimants. The insurance company was held liable to indemnify the insured.

Feeling dissatisfied, the claimants-appellants preferred the instant appeal.

The submissions made by Mr. Nitin Goyal, learned counsel for the appellants, Mr. T.P.S. Makkar, learned counsel for respondent No.2 and Mr. R.K. Bashamboo, learned counsel for respondent No.3 have been heard and record perused.

The finding of learned Tribunal that the accident in which

deceased Arjan Singh lost his life occurred due to rash and negligent driving of the offending truck by respondent-Manjit Singh, is no longer a matter in issue. As per the postmortem report Ex.A2, deceased Arjan Singh was 60 years old. The claimants pleaded that Arjan Singh was running a milk dairy and was earning Rs.9000/- per month. Except for oral evidence, no substantive and reliable evidence could be led by the claimants to prove the monthly income of the deceased. Learned Tribunal assessed the income of the deceased as Rs.1500/- per month considering the age of the deceased and the related factors. The income assessed appears to be appropriate. Otherwise also, learned counsel for the appellants also did not raise any specific argument with regard to the income assessed by learned Tribunal.

Since the age of deceased Arjan Singh, when he died in accident, was 60 years, the multiplier of '9' should have been applied by the Tribunal instead of '5' as per the law laid down in **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77.** The deceased was survived by widow-Natho Devi and son-Jeet Singh, therefore, as held in **Sarla Verma and others'** case (supra) the deduction of 1/3rd towards personal and living expenses was rightly made by learned Tribunal. Accordingly, the compensation payable to the appellants-claimants is calculated as under:-

1.	Monthly income of the deceased (in Rupees)	Rs.1500/-
2.	Actual age of the deceased	62 years
3.	Annual dependency	2/3 of Rs.1500 x 12 = Rs.12,000/-
4.	Multiplier	9
5.	Total	Rs.1,08,000/-

In addition to the amount of Rs.1,08,000/- calculated towards dependency, the amount of Rs.5,000/- awarded under the head of funeral expenses is enhanced to Rs.25,000/-. A further amount of Rs.1,00,000/- is awarded to appellant-claimant No.1 towards loss of consortium. The son of the deceased being class-I legal heir/legal representative is one of the claimant but he being 35 years old is not only an adult but was also not a dependent of the deceased and therefore nothing is being awarded for loss of love, care and guidance. The rate of interest allowed by learned Tribunal shall remain the same.

Accordingly, the appeal filed by the appellants-claimants is partly allowed and the award dated 03.11.1999 passed by learned Tribunal is modified. The enhanced compensation of Rs.1,68,000/- shall be deposited by respondents No.1 and 2 within 45 days from the date of receipt of certified copy of this judgment failing which the appellants-claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of this order till realization. The amount of compensation will be disbursed to the appellants-claimants in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

07.04.2016.
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