

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

FAO No.1413 of 2005.

Date of Decision: 05.04.2016.

Ranbir and another

....Appellants.

VERSUS

Tasvir and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Gobind Korla, Advocate for
Mr. Sandeep K. Sharma, Advocate for the appellants.

Mr. D.R. Bansal, Advocate for respondent No.2.

SNEH PRASHAR, J.

By way of this appeal, appellants-Ranbir and another seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, Rohtak (for short, “the Tribunal”) in MACT Case No.185 of 2003/2004, on account of death of Rajbir (brother of the appellants), who lost his life in a motor accident.

The relevant facts are that on 29.04.2003, Rajbir (since deceased) and one Tasvir Singh after loading wood in truck No.HR-46A-6287 (hereinafter referred to as “truck No.6287”) were coming to Haryana from Gandhi Ghat (Kandla), Gujarat. When they reached near Mewasa Patia on National Highway No.15, Rajbir noticed that some smoke was coming

from the rear tyre on driver side of the truck and when he was checking the same, a truck bearing registration No.G8-V/1464 (hereinafter referred to as “truck No.1464”), being driven rashly and negligently came from his backside and hit him as a result of which he sustained serious injuries and died at the spot. A First Information Report in respect of the accident was registered at Police Station Bhyimasar Kutch on the statement of Tasvir Singh.

The appellants-claimants being brothers of deceased Rajbir Singh filed a petition invoking the provisions of Section 163-A of the Act of 1988 (for short, “the Act of 1988”) claiming compensation from owner and insurer of truck No.6287. The respondents contested the petition. On the rival contentions 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, the learned Tribunal allowed the petition and awarded compensation to the tune of Rs.1,66,000/- to the claimants alongwith interest at the rate of 9% per annum from the date of filing the petition till realization. Respondent No.2-insurance company was held liable for payment of compensation amount at the first instance.

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

The submissions made by Mr. Gobind Korla, learned counsel for the appellants and Mr. D.R. Bansal, learned counsel for respondent No.2-insurance company have been heard.

Learned counsel for the appellants-claimants argued that the deceased was a driver by profession and was earning Rs.4500/- per month but learned Tribunal wrongly assessed his income as Rs.3000/- per month and after deducting 1/3rd of the income applied the multiplier of '13' considering the age of deceased as 48 years whereas the age of the deceased was 45 years. The rate of interest at the rate of 9% per annum allowed by learned Tribunal is also on the lower side and the same should have been 12% per annum.

Perusal of the award passed by learned Tribunal shows that there is no force in the argument of learned counsel for the appellants-claimants. There being no substantive proof of income of the deceased, learned Tribunal rightly assumed that the deceased might be earning Rs.3000/- per month. The appellants-claimants are brothers of the deceased, they are major and were not dependents on the earning of the deceased. Learned Tribunal assessing the income of the deceased as Rs.3000/- per month and working out the dependency qua the appellants-claimants as Rs.1000/- per month i.e. Rs.12,000/- per annum, applied the multiplier of '13' considering the age of the deceased i.e. 48 years. Section 163-A of the Act of 1988 is a special provision for payment of compensation on structured formula basis. It provides that the owner of the motor vehicle or the authorized insurer shall be liable to pay, in the case of death or permanent disablement due to accident arising out of use of the motor vehicle, compensation as indicated in the Second Schedule to the legal heirs or the victim as the case may be. The amount of Rs.1,56,000/- awarded as

compensation to the appellants-claimants by learned Tribunal is as per the Second Schedule of the Act of 1988. The amount of Rs.10,000/- allowed to the appellants on account of last rites etc. of the deceased is also adequate and calls for no modification.

Thus, finding no ground for intervention in the award, the appeal is dismissed.

(SNEH PRASHAR)
JUDGE

05.04.2016.
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