

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

FAO No.6271 of 2014.

Date of Decision: 02.05.2016.

Sunita Rani and others

....Appellants.

VERSUS

Satnam Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. R.D. Sharma, Advocate for the appellants.

Service upon respondents No.1 and 2 was dispensed with
vide order dated 04.12.2015.

Mr. Sukhdarshan Singh, Advocate for respondent No.3.

SNEH PRASHAR, J.

By way of this appeal, appellants-Sunita Rani and others seek enhancement of compensation awarded to them by learned Motor Accident Claims Tribunal, Pathankot (for short, "the Tribunal") vide award dated 08.11.2013 passed in MACT Case No.2 of 04.01.2012 on account of death of Sanjeev Kumar (husband of appellant No.1, father of appellants No.2 and 3 and son of appellant No.4), in a vehicular accident.

The facts are that on 13.11.2011 Sanjeev Kumar (since deceased) and PHC Narinder Kumar were going to Dhakki Chowk for performing official duty by means of separate motorcycles. When at about

3:30 p.m., Sanjeev Kumar took a turn towards G.T. Road Fly Over, the driver of truck bearing registration No.PB-08X-1092 (hereinafter referred as to “the offending truck”), which was parked on the turning point, suddenly started reversing the same in a rash and negligent manner and hit the truck against his motorcycle. He fell and was crushed under the rear tyre of the truck and succumbed to the injuries at the spot.

A First Information Report No.126 dated 13.11.2011 under Sections 304 and 427 of the Indian Penal Code in respect of the accident was registered against Satnam Singh (respondent No.1) at Police Station Division No.2, Pathankot.

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-Satnam Singh.

The driver, owner and insurer (respondents No.1 to 3) of the offending truck contested the petition denying the allegations levelled in the petition. Respondent No.3 pleaded that the driver of the offending truck was not holding a valid and effective driving licence at the time of accident and the offending vehicle was being driven in violation of the terms and conditions of the insurance policy. 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 appellants to

the tune of Rs.41,02,000/- alongwith interest at the rate of 6% per annum from the date of filing the petition till realization. Respondents No.1 to 3 were held jointly and severally liable for payment of the amount of compensation to the appellants. It was also directed that the respondents shall pay a sum of Rs.30,000/- to claimant-appellant No.1 for loss of consortium and cremation expenses.

Feeling unsatisfied with the award dated 08.11.2013, the appellants preferred the instant appeal.

The submissions made by Mr. R.D. Sharma, learned counsel for the appellants and Mr. Sukhdarshan Singh, learned counsel for respondent No.3 have been heard and record perused.

The only argument raised by learned counsel for the appellants-claimants is that learned Tribunal has wrongly deducted 1/3rd of the income of the deceased towards his personal and living expenses whereas there being four dependents of the deceased, deduction of 1/4th should have been made. Also, the amount awarded by learned Tribunal on account of loss of consortium and expenses on cremation etc. is on the lower side.

Indeed, the deceased is survived by widow-appellant No.1, son-appellant No.2, minor daughter-appellant No. 3 and mother-appellant No.4. The number of dependents being four, as per the law laid down in **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77** deduction of 1/4th towards personal and living expenses of the deceased should have been made by learned Tribunal instead of 1/3rd. The total annual salary of the deceased, in order to assess

the dependency of the claimants, was rightly taken as Rs.4,39,000/- and after deducting 1/4th of the income towards personal and living expenses of the deceased, the total dependency of the claimants comes to Rs.3,29,250/- and applying the multiplier of '14' the total loss to the claimants on account of death of Sanjeev Kumar comes to Rs.46,09,500/-. In addition to the above, the amount of Rs.10,000/- awarded to appellant-claimant No.1 under the head of cremation expenses is enhanced to Rs.25,000/- and the amount of Rs.20,000/- awarded towards loss of consortium to appellant-claimant No.1 is enhanced to Rs.1,00,000/-. Another amount of Rs.1,00,000/- to appellants No.2 and 3 and Rs.50,000/- to appellant No.4 is awarded for loss of love and affection. 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 08.11.2013 passed by learned Tribunal is modified. The enhanced compensation of Rs.7,82,500/- shall be deposited by the respondents 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 filing of the appeal 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

02.05.2016.
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