

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2324 of 2000

Date of Decision: 10.11.2017

Pooja and anr.

.....Appellants

Vs.

Sukhchain Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Tarun Yadav, Advocate, for the appellants.

Mr.Mohit Nehra, Advocate, for respondent No.2.

Mr.Pardeep Goyal, Advocate, for the respondent/Ins.Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 18.11.1999, passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') vide which compensation to the tune of Rs.55,000/- was awarded to the claimants on account of death of her brother Gaurav.

FACTS NOT IN DISPUTE

On 10.06.1996, the claimants along with their family members i.e. parents including the registered owner of the car in question started their journey from Delhi to Mata Veshno Devi and the car was being driven by its driver Pawan Kumar at a very normal speed by following the traffic rules and which at about it reached ahead of Toll Tax near bus stop of village Jhanjhari and was on due left side of the road, the offending truck bearing registration No.HNA 1535 being driven by respondent No.1 in a rash, negligent and zig zag manner without observing the traffic rules came from

the opposite side and hit the car of the claimants while coming on the wrong hand side of the road and the car was totally damaged and two persons died at the spot and their mother died lateron and other persons sitting in the car also received serious, grievous and multiple injuries on their person. An FIR No.340 dated 10.06.1996 has been registered for the offence under Sections 279, 337, 338, 304-A IPC against the respondent No.1

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 12 years old and he was minor at the time of accident. Counsel for the claimant had cited the judgment in the case of Nagar Lal Mishra and anr. Vs Lal Chand and others 1998 ACJ 39, wherein, deceased was 17 years bright student were awarded Rs.1,50,000/-. However, in the present case, the claimants have failed to lead any evidence that the deceased was a bright student. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. On the basis of above, the compensation has been assessed by the learned Tribunal as under:

Sr.No.	Heads of compensation	Amount
1	Total compensation	Rs.50,000/-
2.	Funeral expenses and transportation charges.	Rs.5,000/-
	Total	Rs.55,000/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgment "**Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77'; National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017**. Learned counsel submits that the loss of consortium awarded by the Tribunal is on the lower side and further

nothing has been awarded towards love and affection to parents, who were fully dependent upon the deceased. On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

So after going through the impugned order, compensation has been rightly assessed by the learned Tribunal and further assessment could not be made because appellants are not dependent upon her 13 years old brother. As such, the appeal is dismissed as such.

(RITU BAHRI)
JUDGE

10.11.2017

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No