

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

FAO No.1049 of 2012 (&M)

Date of Decision: 26.9.2017

Kamaldeep Kaur and another

..Appellants

Vs.

M/s Darshan Kumar and others

..Respondents

CORAM: HON'BLE MRS.JUSTICE REKHA MITTAL

Present: Mr.B.S.Aulakh, Advocate for the appellants.

Mr.Kanwal Goyal, Advocate for respondent No.2.

Mr.Neeraj Khanna, Advocate for respondent No.3.

REKHA MITTAL, J.

LRs of injured Dev Singh are in appeal seeking enhancement of compensation granted by Motor Accidents Claims Tribunal Sangrur vide award dated 2.11.2011.

Dev Singh, a member of police force of State of Punjab sustained injuries in a motor vehicular accident that took place on 15.9.2003. The Tribunal answered issue No.1 in favour of the claimant(s) that the accident took place due to rash and negligent driving of Mahindra HR-02-F-9259 by Harbhajan Singh. However, the Tribunal did not grant compensation on the basis of its findings recorded qua issue No.5. A relevant extract in this regard reads as under:

“HC Jagtar Singh posted in the account branch of office of SSP Sangrur, who had proved the reimbursement certificates Ex.R1 to

Ex.R9 on the record which shows that medical bills so submitted by Dev Singh to the department were reimbursed to him and an amount of Rs.1,09,315/- was paid to him. This fact was never submitted by Dev Singh when he had filed the claim petition before this Tribunal. Thus, it amounts to concealment of the fact that the medical bills were reimbursed to Dev Singh, which were submitted by him to his department. Thus, in case, now the claimants have got examined the other witnesses, who have proved the medical bills, this Tribunal feels that the claimants are not entitled for any sort of compensation because as discussed above, the accident took place on 15.9.2003 whereas Dev Singh had died on 2.9.2009 due to snake bite and not due to the accident. Further, this Tribunal feels that Dev Singh had died during the pendency of the claim petition and as such, his legal heirs i.e. the present claimants are also not entitled to any sort of compensation because the claimants nowhere alleged regarding loss to the estate of the deceased. Hon'ble Punjab and Haryana High Court in the case titled as **Kashi Ram Versus State of Haryana and others** **1992 ACJ 748** had held that claim application-abatement-claim for personal injuries and the claimant died during the pendency of the claim petition- whether right to sue survives to the legal representatives of the deceased without any allegation of loss to the estate of the deceased. Thus, in view of the supra authority and in view of the above discussion since Dev Singh during his life time was reimbursed all the medical bills submitted by him, as such the claimants are not entitled for any sort of compensation.”

Counsel for the appellants is not in a position to challenge the factual findings recorded by the Tribunal. The contention raised by counsel for the appellants for grant of compensation qua loss to estate and under other heads is not tenable for the reason that legal representatives of the deceased cannot claim non pecuniary damages, personal in nature. The claimants did not adduce any evidence to prove any money spent on account

of sustaining injuries, not reimbursed by his (victim's) department. It has not been established that the injured suffered loss of salary on account of sustaining injuries. In this view of the matter, I do not find any reason to differ with findings of the Tribunal on issue No.5.

For the foregoing reasons, the appeal fails and is accordingly dismissed with no order as to costs.

26.9.2017
Meenu

(Rekha Mittal)
Judge

Whether speaking/reasoned	- Yes/No
Whether Reportable	- Yes/No