

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6014 of 2012 (O&M)
Date of decision:- May 16, 2017

DARSHAN KAUR AND OTHERS

....APPELLANTS..

VS.

PARVEEN KUMAR AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate,
for the appellants.

Mr. D.R. Bansal, Advocate,
for respondent-Insurance Company.

JASPAL SINGH, J.

CM-28249-CII-2012

For the reasons mentioned in the application, delay of 86 days
in refiling the appeal is condoned.

CM stands disposed of.

CM-28250-CII-2012

For the reasons mentioned in the application, delay of 66 days
in filing the appeal is condoned.

CM stands disposed of.

Main case

Feeling aggrieved against the award dated 23.12.2011 passed
by Motor Accident Claims Tribunal, Kurukshetra, (for brevity, "Tribunal"
only) in MACT No.179 of 2011, captioned as "*Darshan Kaur and others v.*

Parveen Kumar and others” under Section 166 of the Motor Vehicles Act, 1988 (for short, “Act”) whereby the claimants were awarded compensation to the tune of ₹5,82,000/-, on account of death of Sukhdev Singh in a vehicular accident occurred on 07.03.2011 in the area of Farladpur Ramnagar, due to rash and negligent driving of motor cycle bearing registration No. HR-07M-8769 by its driver Parveen Kumar-respondent No.1, appellants-claimants have preferred the instant appeal.

2. Assailing the impugned award dated 23.12.2011, it has been argued by learned counsel for the appellants that Id. Tribunal has assessed the income of the deceased only to the tune of ₹4500/- whereas, he was earning ₹8000/- per month. Moreover, nothing has been awarded on account of future prospect and loss of love and affection whereas a sum of ₹5000/- awarded on account of loss of consortium and ₹10,000/- on account of funeral expenses, is on lower side.

4. On the other hand, learned counsel for the respondents have supported the impugned award dated 23.12.2011 and has submitted that just and adequate compensation has already been awarded by Id. Tribunal. There is no illegality and infirmity in the impugned award. Thus, appeal being devoid of merit is liable to be dismissed, that too, with special costs.

5. After bestowing due consideration to the rival submissions made by learned counsel for the parties, appraisal of evidence and scanning the impugned award dated 23.12.2011, this Court finds legal and factual substance in the various submissions made by learned counsel for the appellants.

6. Undisputably, the income of the deceased has been assessed to

the tune of ₹4500/- per month, who was aged about 44 years at the time of accident. Since, there is no documentary evidence in support of the income being earned by the deceased, the assessment of his income to the tune of ₹4500/- is legally and factually justified. Ld. Tribunal has applied the multiplier of 14, which has rightly been adopted, keeping in view the age of deceased.

7. Here, it would also be pertinent to mention that nothing has been awarded by ld. Tribunal on account of loss of love and affection whereas the amount of compensation awarded in lump sum is unjust and inadequate, especially, in view of the guidelines laid down in ***Sarla Verma and others v. Delhi Transport Corporation and another*** 2009(3) RCR (Civil) 77, which has subsequently been approved in case captioned as ***“Rajesh vs. Rajbir 2013 (3) RCR (Civil) 170***. As per the guidelines, the appellants/claimants are entitled for compensation of ₹1,00,000/- on account of loss of love and affection, ₹1,00,000/- on account of loss of consortium instead of ₹5000/- which has already been awarded and further for a sum of ₹25,000/- on account of funeral expenses instead of ₹10,000/- already awarded by ld. tribunal. Thus, the total amount works out to ₹7,92,000/-, to which the appellants-claimants are entitled on account of death of Sukhdev Singh. As such, appellants-claimants are entitled to enhanced compensation to the tune of ₹2,10,000/- as against the compensation of ₹5,82,000/- already awarded by the ld. Tribunal.

8. As far as awarding of compensation on account of future prospect is concerned, the matter in this regard is pending before the larger Bench of the Hon'ble Apex Court and it would not be desirable to award

future prospects. However, it can be safely concluded that the compensation awarded by the 1d. Tribunal is neither just nor adequate.

8. As a sequel of the aforesaid discussion, appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹2,10,000/- in addition to the compensation already awarded. Respondents No.1 to 3 are directed to pay the amount so enhanced within a period of two months from the date of receipt of certified copy of this order and on its failure to make the payment within stipulated period, it would entail interest @ ₹6% per annum from the date of filing of the claim petition before the Tribunal till its realization. Parties to bear their own cost.

May 16, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No