

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 264

FAO No.872 of 2015 (O & M)
Date of Decision: *January 11, 2017*

Sarewanti @ Sarswati

..... APPELLANT

VERSUS

Jagan Nath & others

..... RESPONDENTS

...

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

...

PRESENT: - Mr. Mukesh Yadav, Advocate, for the appellant.

Respondent Nos.1 and 2 ex-parte.

Mr. Lalit Garg, Advocate, for respondent No.3 –
Insurance Company.

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Jaspal Singh, J

1. The instant appeal has been preferred by claimant – appellant Sarewanti @ Sarswati (mother of Manjeet, deceased) seeking enhancement of compensation awarded to her by the Motor Accident Claims Tribunal, Narnaul (for short, ‘Tribunal’) vide Award dated October 01, 2014 passed in MACT case No.58 of 1994/2014 titled “Sarewanti @ Sarswati vs. Jagan Nath & others” whereby she has been awarded compensation to the tune of ₹ 3,60,000/- on account of death of her son in a vehicular accident.

2. The brief facts of the case are that on April 19, 1994 Manjeet (aged 7 years) alongwith his mother and sister Manisha was going

about 3:30 PM, when they reached in the area of village Akoda, on Mohindergarh – Dadri road, truck bearing No.HR-38-1457 (for short, ‘offending vehicle’) coming from Dadri side, being driven in a rash, negligent and zig-zag manner, dashed against the scooter, as a result of which, Manjeet died on the spot. Virender also sustained injuries. Respondent No.1 – driver of offending vehicle fled away from the spot. The accident was witnessed by Bohar Ram and Surender.

3. The appellant preferred a claim petition before the Tribunal seeking compensation. The petition was contested by respondent No.3 – National Insurance Company (for short, ‘Insurance Company’) by filing written statement. Respondent Nos.1 and 2 were proceeded against ex-parte. From the pleadings of the parties, issues were framed.

4. In order to prove her case, Claimant – appellant led evidence. However, respondents did not examine any witness nor tendered any document.

5. After hearing learned counsel for the parties and on appraisal of evidence available, the claimant – appellant was awarded a sum of ₹ 3,60,000/- (including ₹ 20,000/- towards funeral expenses & loss of estate). Respondent No.3 – Insurance Company was directed to pay compensation to the claimant first and then to recover it from respondent Nos.1 and 2 (driver and owner of offending vehicle).

6. Dis-satisfied by the aforesaid award, claimant has approached this Court seeking enhancement of compensation.

7. While assailing the impugned award, learned counsel for the appellant has contended that compensation awarded by the Tribunal is on lower side and thus, liable to be enhanced.

8. Per contra, learned counsel for the Insurance Company has vehemently opposed the appeal contending that award passed by the Tribunal is absolutely in consonance with the settled canons of law. Adequate compensation has already been granted to the claimant by the Tribunal. Accordingly, the appeal preferred by the claimant – appellant be dismissed.

9. This court has given an anxious thought to the aforesaid submissions made by learned counsel for the parties and perused the record available.

10. Undisputably, Manjeet (since deceased) was aged about 7 years and was a student of 3rd standard at the time he lost his life in a vehicular accident. He was non-earning member of the family. In case Krishan Gopal & another vs. Lal & others, 2013(4) RCR (Civil) 276, death of a child (aged 10 years) had occurred and while considering his notional income to the tune of ₹ 30,000/- per annum, whose parents were young, multiplier of 15 was applied which came to ₹ 4.50 lac and by making an addition of ₹ 50,000/- towards conventional heads (i.e. loss of love & affection, funeral expenses, last rites), total compensation to the tune of ₹ 5 lac was awarded. Thus, in the case in hand also, the claimant deserves the compensation totaling ₹ 5 lac on account of death of her son. As such, the amount awarded by learned Tribunal to the tune of ₹ 3,60,000/- cannot be termed to be just and adequate compensation which otherwise, deserves to be enhanced.

11. In the light of what has been discussed above, the appeal is allowed and award stands modified to the extent that compensation awarded by the Tribunal stands enhanced to ₹ 5,00,000/- from ₹ 3,60,000/- (i.e.

the Tribunal). Respondent No.3 – Insurance Company is directed to make payment of the enhanced amount within a period of 45 days from the date of receipt of a copy of this judgment and in case of its failure to pay the enhanced compensation within the stipulated period, to entail interest @ 6% from the date of claim petition. However, interest clause of amount awarded in trial court award as well as recovery rights of Insurance Company are upheld.

12. No order as to costs.

January 11, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No