204-2

IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH

FAO No.1718 of 2001 (O&M)
Date of Decision : **30.05.2018**

State of Haryana and Anr. ...appellants

versus

Sushma Kalra and Ors. ...Respondents

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep S. Mann, Sr. DAG, Haryana.

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AVNEESH JHINGAN, JUDGE (ORAL)

State of Haryana and General Manager of Haryana Roadways, Fatehabad Depot, District Fatehabad are in appeal against award dated 02.03.2001 passed by Motor Accident Claims Tribunal, Sirsa (for short ' the Tribunal). A motor vehicular accident took place on 20.02.1998. The offending vehicle in the said accident was bus bearing registration No.22-A-PA/0202. The accident occurred on National Highway No.10. The offending vehicle ramped into Maruti Car bearing registration No. HR 24-A/0569. The accident prove fatal for Ashwani Kumar, Narinder Kumar and Jamna Devi. All the occupants died at the spot. An FIR No. 72 dated 20.02.1998 was registered at Police Station Ding.

A claim petition was filed by the legal heirs of Ashwani Kumar under Section 166 of Motor Vehicles Act 1988 (for short 'the Act'). The Tribunal held that the accident occurred due to rash and negligent driving of the offending bus. The Tribunal relying upon the Income Tax return for the year 1997-98 and after deducting the income tax took the annual earning of deceased as Rs.90,000/-; 1/3rd deduction for self expenses was made; multiplier of 15 was applied and compensation of Rs.4,30,000/-was awarded along with interest @ Rs.9% per annum. The amount includes Rs.10,000/- awarded under the conventional heads.

The appellants are aggrieved of the quantum of compensation awarded. Learned counsel for the appellant contended that the Tribunal erred in relying upon the income tax return as only one return was placed on record and no returns for the earlier assessment years were exhibited.

The contention raised by the learned counsel for the appellant cannot be accepted, as there was no reason for the Tribunal to doubt the income tax return filed. It would be pertinent to note here that in the return filed income tax of Rs.4806/- was also paid.

Moreover, assuming there can be a possible dispute with regard to the earning of the deceased, even in that case also no interference is called for in the award as no future prospectus have been added and even the amounts awarded under the conventional heads are on the lower side. In such circumstances taking into consideration the over all compensation awarded same cannot be said to be on the higher side.

Appeal is dismissed.

30th May, 2018 **(AVNEESH JHINGAN)**
Manju **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No