

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

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**IOIN-FAO No.3945 of 2009 in/and
FAO No. 3945 of 2009 (O&M)
Date of decision: 08.03.2018**

Karnail Kaur & Ors.

... Appellants

Vs.

Kuldip Singh & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. R.K.Shukla, Advocate, for the appellants.

HARI PAL VERMA, J. (Oral)

Appellants have filed the present appeal seeking enhancement of compensation over and above the compensation awarded by Motor Accidents Claims Tribunal, Fatehgarh Sahib, vide award dated 22.01.2009.

The claimants had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') (later on converted into under Section 163-A of the Act) for grant of compensation on account of death of Nachhattar Singh, who died in an accident which took place on 19.06.2004.

As per the claim petition on 19.06.2004 at about 12:30 PM, Nachhattar Singh (since deceased) was returning with his cycle rehri to his village after doing his daily work. When he reached near Village Chourwala, Police Station Mulepur, the offending vehicle (Oil Tanker No. PB-12-E-9955) came from behind at a very fast speed, which was being driven in a rash and negligent manner. The offending vehicle hit a cycle

rehri of the deceased, as a result thereof, he received multiple fractures and injuries on his person and then the tanker hit the car bearing registration No. PB-11-B-0406, which was coming from the opposite side. The injured was taken to Civil Hospital, Fatehgarh Sahib from where he was referred to Govt. Medical College and Hospital, Sector 32, Chandigarh. He remained under treatment till 15.08.2004, the date on which he succumbed to his injuries. One of the issue framed by the Tribunal was “*whether Nachhattar Singh died due to the accident which had taken place on 19.06.2004 at about 12:30 PM near Village Chaurwala, P.S. Mulepur due to rash and negligent driving of respondent No.1 Kuldip Singh while driving Oil Tanker No. PB-12-E-9955?OPP*”. On this crucial issue the claimants failed to prove that death of Nachhattar Singh had taken place due to injuries received by him. He died on 15.08.2004 after about two months (01 month and 25 days) from the accident.

Though the claimant Karnail Kaur while appearing as PW-1 stated that deceased remained under the treatment of various doctors but she has neither furnished any details from where the treatment was taken nor the prescriptions of any doctor had been produced. She has stated that a sum of Rs.40-50,000/- were spent on the treatment of her husband, but no such bill was produced. Since the petition was under Section 163-A of the Act, the provisions of the Act relate to the payment of compensation on structured formula basis in case of death or permanent disablement due to accident arising out of the use of motor vehicle. The compensation was required to be awarded as per the second Schedule attached with the Act. Accordingly, the Tribunal has awarded following compensation:-

Medical Expenses	=	Rs.10,000/-
Pains and Sufferings	=	Rs.5,000/-
Loss of Income	=	Rs.5,000/-
Expenses towards transportation etc	=	Rs.5,000/-

Learned counsel for the appellant has argued that the deceased had died because of the accident and, therefore, adequate compensation has not been awarded to the claimants. He has further argued that statements of the claimants remained unrebutted and, therefore, statement of the claimants should have been accepted in its totality.

I have heard learned counsel for the appellants.

The crucial finding recorded in paragraph 14 of the award of the Tribunal reads as under:-

“ The very important question which required determination by this Court is as to whether claimants have been able to prove that Nachhattar Singh died because of the injuries received by him in the accident. On perusal of the evidence, this Tribunal is not in a position to reach the conclusion that death of Nachhattar Singh had taken place due to the injuries received by him. His death had taken place on 15.08.2004, after about 2 months of the accident. It has been stated by the claimant Karnail Singh who appeared as PW1 that during this period, the deceased remained under the treatment of various doctors but neither the details of the doctors has been given nor the prescriptions or treatments given by those doctors have been proved on file. She has

stated that sum of Rs.40/50,000/- were spent on the treatment of her husband. Some of the details were lying at her house, while some were with her counsel. However, on file no such bills have been produced to prove that the treatment of injured continued for any serious illness arising out of the injuries received by him in the accident. In the absence of any evidence, this Court has no other option but to hold that claimants have failed to prove that the death of deceased Nachhattar Singh had taken place due to the injuries received by him in the accident.”

Since the appellant has failed to prove the fact that Nachhattar Singh had died because of the injuries so suffered in the accident and no medical evidence has been adduced, the Tribunal has awarded adequate compensation. Though, the claimants have submitted that a sum of Rs.40-50,000/- was spent on the treatment of her husband, but no such bill were produced even the name of the doctor or of the hospital from where they got the treatment has not been spelled out. Therefore, this Court does not find any reason to interfere with the impugned award.

Accordingly, the appeal is dismissed.

March 08, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No