

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

**FAO No.3254 of 2016 (O&M)
Date of decision: 22.02.2018**

Nirmala and others

....Appellants

Versus

Subhash Chander and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vivek Khatri, Advocate,
for the appellants.

Mr. Punit Jain, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Hissar (hereinafter referred to as 'the Tribunal') vide award dated 17.12.2015, on account of death of Rajesh in a motor vehicular accident which took place on 03.09.2013. Appellant No.1 is widow, appellant Nos.2 & 3 are children and appellants Nos.4 & 5 are parents of deceased Rajesh.

Brief facts of the case are that on 03.09.2013, at about 6.30 A.M., Rajesh (since deceased) along with Gurmish was going from his village Fransi to Agroha in a Bolero bearing registration No.HR-39-B-8475. When they reached near Hooda School, a tractor-trolley bearing registration No. RJ-23-R-5467 being driven by respondent No.1-Subhash Chander in a rash and negligent manner, came from the opposite side and struck against

the Bolero vehicle, as a result of which, Rajesh received serious, grievous

and multiple injuries and died on the spot. Gurmesh also received injuries. With regard to the incident, FIR No.267 dated 03.09.2013, under Sections 279/337/427/304-A IPC was registered against respondent No.1. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of the rash and negligent driving of offending tractor-trolley by its driver-respondent No.1 and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Gurmesh (PW-5), who was an eye witness of the accident. Further, the claimants have proved on record copy of report under Section 173 Cr.P.C. Ex.P1, copy of FIR, Ex.P2 and copy of charge-sheet Ex.P3.

In the absence of any documentary proof, income of the deceased was assessed as Rs.9284/- per month. Out of this, 1/4th amount was deducted towards his personal expenses and dependency of claimants came to Rs.6963/- (Rs.9284 – 2321) per month i.e. Rs.83,556/- per annum. As per postmortem report, deceased was 35 years of age at the time of accident/death. Accordingly, multiplier of 16 was applied. After applying the multiplier of 16, dependency of claimants came to Rs.13,36,896/- (83,556 x 16). In addition to it, Rs.1,00,000/- were awarded to claimant No.1 on account of loss of consortium, Rs.1,00,000/- to claimants Nos.2 and 3 as loss of love and affection, Rs.1,00,000/- to claimant Nos.4 and 5 being parents towards love and affection and Rs.11,000/- as funeral expenses. Hence, the claimants were found entitled to total compensation of

Rs.18,47,896/-. Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. After going through the impugned Award, this Court is of the view that the compensation has been rightly assessed by the Tribunal and no ground is made out to interfere therein.

Dismissed.

(RITU BAHRI)
JUDGE

22.02.2018
ajp

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