

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

**FAO No.5017 of 2016 (O&M)
Date of decision: 20.04.2018**

Balvir Kaur

....Appellant

Versus

Sukhdev Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. L.S. Sidhu, Advocate,
for the appellant.

RITU BAHRI J. (Oral)

Notice of motion.

On the asking of the Court, Mr. R.C. Kapoor, Advocate,
accepts notice on behalf of respondent No.3-Insurance Company.

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Mansa (hereinafter referred to as 'the Tribunal') vide award dated 11.03.2016, on account of death of Chamkaur Singh in a motor vehicular accident which took place on 28.02.2013. Appellant is mother of deceased Chamkaur Singh.

Brief facts of the case are that on 28.02.2013, Chamkaur Singh (since deceased) along with his uncle Major Singh was going from village Alisher Khurd towards Tehsil Complex, Mansa on a motorcycle bearing registration No. PB-08-AT-8175. The said motorcycle was being driven by

Chamkaur Singh and Major Singh was a pillion rider. At about 10.30 A.M.,

Chamkaur Singh dropped Major Singh at Mansa crossing and he himself proceeded towards Mansa. In the meantime, a white coloured Sumo bearing registration No. PB-19-H-2505, being driven by respondent No.1-Sukhdev Singh in a rash and negligent manner, came from behind and hit the motorcycle of Chamkaur Singh, as a result of which, Chamkaur Singh fell on the road along with his motorcycle. At the same time, a truck bearing registration No. PB-03-AA-8296, being driven by Jassi Singh alias Jasvir Singh-respondent No.4 at a high speed, came from the front side, passed over right side of the head of Chamkaur Singh and dragged him for about 10 Karams. Chamkaur Singh died at the spot. With regard to the incident, FIR No.23 dated 28.02.2013, under Sections 279/304-A/427 IPC was registered at Police Station, Sadar Mansa against respondent Nos.1 and 4. Consequently, the claimant-appellant 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 vehicles by respondent Nos.1 and 4 respectively and thus, returned finding on issue No.1 in favour of the claimants. This finding was given on the basis of deposition of Major Singh (PW-2), who was an eye witness of the accident and on whose statement FIR Ex.PW1/B was registered. Claimants have also proved on record certified copy of postmortem report of deceased as Ex.PW1/C.

In the absence of any documentary proof, income of the deceased as assessed at Rs.6000/- per month as that of a daily wager. In this income, 50% addition was made on account of future prospects. By doing

so, total income came to Rs.9000/- (Rs.6000/- + Rs.3000/-). Out of this income, 50% amount was deducted towards personal expenses of deceased, which came to Rs.4500/- per month. The deceased was 26 years of age at the time of death/accident. Accordingly, multiplier of 17 was applied. After applying the multiplier of 17, dependency of claimant came to Rs.9,18,000/- (Rs.4500/- x 12 x 17). In addition to it, Rs.25,000/- were awarded to claimant on account of funeral expenses. Hence, the claimant was found entitled to total compensation of Rs.9,43,000/- along with interest at the rate of 6% per annum from the date of filing of petition till actual realization. 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, on all the heads, has been rightly awarded by the Tribunal keeping in view the law prevalent at that time and no ground is made out to enhance the same. The evidence has been appreciated in the right perspective.

Resultantly, finding no merits, the present appeal stands dismissed.

(RITU BAHRI)
JUDGE

20.04.2018
ajp

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