

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

FAO No.7015 of 2016 (O&M)

Date of Decision: 23.1.2018

Bimla Devi

..Appellant

Vs.

Babbu Kumar and others

..Respondents

CORAM: HON'BLE MS.JUSTICE RITU BAHRI

Present: Mr.Vivek Suri, Advocate for the appellant.

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

RITU BAHRI, J.

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 24.5.2016, on account of death of Mangal Ram @ Mangal Singh in a motor vehicular accident which took place on 7.5.2014. Appellant is the widow of deceased Mangal Ram @ Mangal Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 7.5.2014, Mangal Ram @ Mangal Singh was going to meet Balwant Singh s/o lachman Singh to his shop on foot on correct left hand side of road on Ghagga Samana Road. At about 12 noon, when he reached near the shop of Balwant Singh and deceased was in the process to cross the road, in the meantime, Canter

bearing registration No.PB-13-AB-4147 came from bus stand, Ghagga side, which was being driven by its driver respondent No.1 at a very high speed and in rash and negligent manner without following traffic rules, struck against Mangal Ram @ Mangal Singh as a result of which he fell down on the road and received multiple simple as well as grievous injuries in the accident. Injured was taken to Civil Hospital, Samana from where he was referred to RH Patiala and then referred to PGI, Chandigarh where injured died due to the injuries suffered by him in the accident. FIR was lodged at his instance by the police of police station Ghagga, District Patiala. Consequently, claimant-appellant alongwith her sons 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 occurred on account of rash and negligent driving of offending Canter by respondent No.1. This finding was rightly given on the basis of FIR Ex.P1 and depositions of PW-1 and PW-2.

In the absence of any direct evidence, income of deceased was assessed at Rs.9000/- per month, out of which half of the amount was deducted towards his personal expenses. The annual dependency of claimant, thus, came to $\text{Rs.}4500 \times 12 = \text{Rs.}54,000/-$. The deceased was 62 years of age at the time of accident/death and the multiplier of 7 was applied. Thus, the claimant was found entitled to compensation of Rs.3,78,000/-. In addition to this, Rs.One lac were awarded towards loss of consortium to the widow-appellant and Rs.25,000/- towards funeral expenses. Hence, the claimants were found entitled to a total compensation

of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

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

Learned counsel for respondent-Insurance Company is not disputing the finding given on issue No.1 in respect of rash and negligent driving by respondent No.1 as FIR is at the instance of police official of Police Station Ghagga Samana Road, Patiala.

The income has been rightly assessed by the Tribunal in view of agricultural income. A perusal of the award shows that the claimant-appellant was having 9.5 killas of land as per jamabandi Ex.P4 and in the absence of any direct evidence, income has been rightly taken as Rs.9000/- p.m.

Keeping in view that the agriculture land is still with the widow-appellant for the purpose of income, the income has been rightly taken as Rs.9000/- and the award passed by the Tribunal has been rightly passed.

In view of the above, no interference in the award passed by the Tribunal is required. Therefore, the present appeal of the claimant is hereby dismissed.

23.1.2018
Meenu

(Ritu Bahri)
Judge

Whether speaking/reasoned - Yes/No
Whether Reportable - Yes/No