

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

F.A.O. No. 97 of 2015(O&M)
Date of Decision: 27.07.2018

Raj Bala and another

.....Appellants.

Versus

Dinesh Kumar and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

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

Ms. Vandana Malhotra, Advocate
for respondent no.4-Insurance Company.

LISA GILL, J (Oral).

CM-430-CII of 2015.

Heard.

Keeping in view the averments in the application duly supported by an affidavit of appellant no.1 as well as arguments addressed, delay of 44 days in filing of this appeal is condoned.

Application is disposed of.

FAO No. 97 of 2015

The present appeal has been filed by the claimants seeking enhancement of the compensation awarded to them by the learned Motor Accident Claims Tribunal, Rewari, vide impugned award dated 01.08.2014 on account of death of Udai Bhan.

As per averments in the claim petition, Udai Bhan i.e. husband of appellant no.1 and father of appellant no.2(minor children) , died in a

motor vehicle accident which took place on 24.01.2011 due to rash and negligent driving of Haryana Roadways Bus bearing registration No. HR-47-A-8839 by its driver namely-Dinesh Kumar-respondent no.1. FIR No. 23 dated 24.01.2011(Ex.P-13) was registered in this respect.

Learned tribunal on considering the facts and circumstances of the case concluded that the accident in question was caused due to rash and negligent driving of the offending bus by respondent-Dinesh Kumar.

Learned Tribunal has awarded total compensation of ₹10,25,000/- to the claimants which is detailed as under:-

Sr. No.	HEADS	CALCUATIONS
1.	Annual Income (5000x12)	₹60,000/-
2.	50% of (1) added as future prospects	(₹60000/- + ₹30,000/-) ₹90,000/-
3.	Deduction of 1/3rd towards personal expenses of the deceased	(₹90,000/- - ₹30,000/-) ₹60,000/-
4.	Total dependency after applying multiplier of 15	(₹60,000/- x 15) ₹9,00,000/-
5.	Loss of consortium	₹1,00,000/-
6.	Funeral expenses	₹25,000/-
	Total Compensation Awarded	₹10,25,000/-

Appellants seek further enhancement of the compensation awarded.

Heard learned counsel for the parties.

A valiant attempt has been made by learned counsel for the appellant to suggest that the income of the deceased as assessed by the learned tribunal, is on the lower side. Claimants had pleaded that the deceased who was 37 years old, was an agriculturist; besides running a milk dairy thereby earning ₹15,000/- per month. Reference was made to Jamabandi Ex.P-1, wherein the deceased had 3/16 share in the land

measuring 21 Kanal 19 Marlas. J-Forms (Ex.P-2 to Ex.P-6) were relied upon to indicate the income of the deceased. In my considered opinion, learned tribunal has rightly held that no reliance can be placed on said J-Forms (Ex.P-2 to Ex.P-6) as the land holding reflected in the Jamabandi Ex.P-1 does not justify such a return. Likewise, there is no evidence on record to indicate that the deceased was running a milk dairy. The income of the deceased has therefore been rightly assessed as ₹5000/- per month by the learned tribunal. It is further noticed that 50% increase on account of loss of future prospects has been afforded, whereas in view of the guidelines laid down by the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009**, there should have been an increase of 40%. Similarly, a sum of ₹1 lakh for loss of consortium and ₹25,000/- for funeral expenses has been awarded. It is informed that no appeal has been preferred by the Insurance Company.

Keeping in view the facts and circumstances of the case, there is no ground for enhancement in the compensation already awarded to the claimants-appellants.

Accordingly, I do not find any infirmity, illegality or perversity in award dated 01.08.2014, passed by learned MACT, Rewari, which warrants any interference by this Court at the instance of the appellants.

Appeal is accordingly dismissed with no order as to cost.

27.07.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.