

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

FAO No.78 of 2016 (O&M)

Date of decision: 12.01.2018

Sunita and others

....Appellants

Versus

Ajay and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Sharmila Sharma, Advocate,
for the appellants.

Mr. Satish Mishra, Advocate,
for Mr. Amit Kumar Goyal, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.185-CII of 2016

For the reasons mentioned in the application, same is allowed
and delay of 350 days in filing of the appeal is condoned.

FAO No.78 of 2016

This appeal has been filed by the claimant-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Sonipat (hereinafter referred to as 'the Tribunal') vide award dated
24.09.2014, on account of death of Surender in a motor vehicular accident
which took place on 07.08.2013. Appellant No.1 is widow and appellant
Nos.2 to 5 are children of deceased Surender Singh.

Brief facts of the case are that on 07.08.2013, Surender Singh
(since deceased) was returning to his village Kanwali from CRA College,
Sonipat (after duty hours) on a motorcycle bearing registration No. HR-06-
L-4047. Jitender and Sanjeet were following him on a separate motorcycle.

When they reached near Rohat culvert on Sonipat-Kharkhoda road, one

Alto car bearing registration No. HR-36-Q-5113, being driven by Ajay-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against the motorcycle of Surender Singh, as a result of which, he fell down and sustained injuries on various parts of his body. Jitender and Sanjeet took him to General Hospital, Sonipat, from where, he was referred to PGIMS, Rohtak. However, he was got admitted in Signess Hospital (Hindu Charitable Hospital), Sonipat, where he remained admitted. Unfortunately, Surender Singh succumbed to the injuries on 11.08.2013. With regard to the incident, FIR No.305 dated 11.08.2013, under Sections 279/337/304-A IPC was registered at Police Station, Sadar, Sonipat 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 car by its driver-respondent No.1 and thus, returned finding on issue No.1 in favour of the claimants. This finding was given on the basis of deposition of Jitender alias Patwari (PW-6), who was an eye witness of the accident and on whose statement FIR Ex.P3 was recorded. Claimants have also proved on record postmortem report of deceased as Ex.P4.

The deceased was employed as Library Attendant in CRA College, Sonipat. As per salary certificate Ex.P2, he was drawing monthly salary of Rs.22,385/-. While assessing compensation by the Tribunal, 15% of salary has been added on account of future prospects, which came to Rs.25,739/- per month, rounded off to Rs.25,800/- per month. Out of this

income, 10% per month has been deducted as income tax. Accordingly, monthly income of deceased came to Rs.23,220/-. Out of this, $\frac{1}{4}$ amount was deducted towards personal expenses of the deceased. Dependency of the claimants came to Rs.17,415/- per month i.e. Rs.2,08,980/- per annum. Deceased was 52 years of age at the time of accident/death. Accordingly, multiplier of 11 was applied. After applying the multiplier of 11, dependency of claimants came to Rs.22,98,780/- (2,08,980 x 11). In addition to it, Rs.25,000/- were awarded on account of funeral expenses and Rs.1,00,000/- for loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.24,23,780/-. 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

12.01.2018
ajp

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