

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

**FAO No.8053 of 2016
Date of decision: 15.02.2018**

Sunita Devi and others

....Appellants

Versus

Naresh Prasad @ Ram Naresh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.S. Mamli, Advocate,
for the appellants.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 02.08.2016, on account of death of Hukam Chand in a motor vehicular accident which took place on 24.07.2015. Appellant No.1 is widow, appellant Nos.2 to 5 are children and appellant No.6 is mother of deceased Hukam Chand.

Brief facts of the case are that on 24.07.2015, Hukam Chand (since deceased) along with Santosh and Guddi (pillion riders) was going on a motorcycle (Hero Delux). When they reached near Power House, Kala Amb to Trilokpur road in the area of village Khairi, a truck bearing registration No. HR-58-B-0687 being driven by respondent No.1-Naresh Prasad in a rash and negligent manner, came hit the motorcycle from backside, as a result of which, Hukam Chand, Santosh and Guddi fell down.

Due to the multiple grievous injuries, Hukam Chand died at the spot. Guddi

also received injuries. With regard to the incident, FIR No.61 dated

24.07.2015, under Sections 279/337/304-A IPC was registered at Police Station, Kala Amb 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 truck 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 Guddi (PW-2) and Santosh (PW-3), who were eye witnesses of the accident. Further, the claimants have proved copy of report under Section 173 Cr.P.C. Ex.P1, site plan Ex.P2, FIR Ex.P3 and PMR of Hukam Chand as Ex.P4.

In the absence of any documentary proof, income of deceased as assessed as Rs.58,00/- per month and in this income, addition of 30% has been made on account of future prospects, which came to Rs.7540/- (Rs.5800 + 1740). Out of this income, 1/4th amount was deducted towards personal expenses of the deceased. Dependency of the claimants came to Rs.5655/- per month i.e. Rs.67,860/- per annum. Deceased was 41 years of age at the time of accident/death. Accordingly, multiplier of 14 was applied. After applying the multiplier of 14, dependency of claimants came to Rs.9,50,040/- (67,860 x 14). In addition to it, Rs.25,000/- were awarded on account of transportation of dead body and funeral expenses, Rs.1,00,000/- for loss of consortium to claimant No.1, Rs.1,00,000/- towards loss of estate, Rs.1,00,000/- as loss of love and affection and Rs.50,000/- to claimant No.6 towards loss of love and affection. Hence, the claimants were found entitled to total compensation of Rs.16,25,040/-. The

Tribunal has further observed that deceased-Hukam Chand was also negligent of not wearing helmet and triple riding. Therefore, in the ratio of 50:50, amount of compensation was apportioned in proportion to the contributory negligence and the claimant Nos.1 to 6 were held entitled to recover Rs.8,12,520/- as just compensation. 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

15.02.2018
ajp

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