

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

**FAO No.8115 of 2016 (O&M)
Date of decision: 04.05.2018**

Bala Devi and another

....Appellants

Versus

Vinod Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rakesh Bakshi, Advocate,
for the appellants.

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

RITU BAHRI J. (Oral)

CM No.26927-26928-CII of 2016

For the reasons mentioned in the applications, same are allowed and delay of 572 days in filing and 227 days in re-filing of the appeal is condoned.

FAO No.8115 of 2016

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 11.04.2014, on account of death of Ram Pal in a motor vehicular accident which took place on 27.10.2012. Appellant No.1 is widow and appellant No.2 is son of Ram Pal.

Brief facts of the case are that on 27.10.2012, at about 9.30

Mubarakpur, Derabassi on bicycle. When he reached just opposite the Mill, in the meantime, a Maruti Alto car bearing registration No.HR-04-D-8731, being driven by respondent No.1-Vinod Kumar in a rash and negligent manner, came from the side of Barwala and struck against the bicycle of Ram Pal, as a result of which, he received multiple and grievous injuries. He was taken to Government Medical College and Hospital, Sector 32 Chandigarh, but succumbed to the injuries on the way. With regard to the incident, FIR No.202 dated 28.10.2012, under Sections 279/304-A IPC was registered at Police Station, Derabassi, 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 vehicle by its driver-respondent No.1 and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Ravinder Sharma (PW-2), who was eye witness of the accident. Further, the claimants have proved on record copy of FIR Ex.P3 and postmortem report of deceased as Ex.PW4/4.

On the basis of evidence led by the claimants, income of the deceased was assessed by the Tribunal as Rs.5798/- per month. In this income 15% has been added on account of future prospects and total monthly income of deceased came to Rs.6668/- (Rs.5798 + Rs.870). Out of the total income of deceased, 1/3rd was deducted towards his personal expenses. Dependency of the claimants came to Rs.4446/- per month (Rs.6668 - 2222/-). As per postmortem report, deceased was 58 years of

age at the time of accident/death. Accordingly, multiplier of 09 was applied. After applying the multiplier of 09, dependency of claimants came to Rs.4,80,168/- (4446 x 12 x 9). In addition to it, Rs.1,00,000/- were awarded to claimant No.1 (widow) on account of loss of consortium and Rs.25,000/- as funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.6,05,168/- along with interest @ 7.5% per annum from the date of filing of the petition till 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 has been rightly assessed by the Tribunal and no ground is made out to interfere therein. The evidence has been appreciated in the right perspective.

Dismissed.

(RITU BAHRI)
JUDGE

04.05..2018
ajp

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