

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) FAO No.2443 of 2018 (O&M)
Date of Order:05.07.2018

Mittal Construction Company

..Appellant

Versus

Avtar Singh and others

..Respondents

(2) FAO No.2444 of 2018 (O&M)

Mittal Construction Company

..Appellant

Versus

Jagtar Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vishal Goel, Advocate,
for the appellant.

ANIL KSHETARPAL, J(Oral)

By this order, two appeals i.e. FAO Nos.2443 and 2444 of 2018 shall disposed of as they are arising out of a motor vehicle accident.

Owner is in the appeal against the award passed by the Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal') in cases arising from two deaths in a motor vehicle accident involving a truck-tipper owned by the appellant and a motorcycle.

Claimants led cogent evidence including examination of the eye witness Surjit Singh, who proved that the accident took place due to

rash and negligent driving of Gurdeep Singh @ Gogo, the driver of the offending vehicle. Harpreet Singh and Lovepreet Singh had died in the aforesaid accident. Two claim petitions were preferred which have been allowed by the learned Tribunal.

Learned counsel for the appellant submitted that the income assessed by the learned Tribunal at Rs.8000/- per month in both the cases is on the higher side.

In the case arising from the death of Harpreet Singh, it has come in evidence that he was owner of two trucks and was also owner of certain agricultural land. In such circumstances, keeping in view the fact that the accident took place on 22.11.2016, this Court is of the considered opinion that the income assessed is not on the higher side.

Next argument of learned counsel is that under the head of love and affection, the learned Tribunal has granted Rs.1,00,000/-, which is not permissible as per the judgment passed in the case of **National Insurance Company Limited v. Pranay Sethi and others, JT 2017(10) SC 450.**

No doubt, Constitution Bench of the Hon'ble Supreme court has held so. However, on careful reading of the award passed by the learned Tribunal, it is apparent that on account of increase in income (future prospects) no amount has been awarded.

In view thereof, the amount awarded under the head, loss of love and affection can certainly be adjusted towards future prospects and amount payable under conventional heads i.e. loss of estate, loss of consortium and funeral expenses.

In the second appeal, arising from the death of Lovepreet Singh. It has come in evidence that he was helping his cousin Harpreet

Singh, who was a transporter and also having agricultural land.

In such circumstances, the income assessed by the court cannot be said to be on higher side.

As regards the amount awarded under the head love and affection, the same can very well be adjusted towards future prospects and under conventional heads, which have not been awarded.

In view thereof, there is no scope for interference.

Both the appeals are dismissed.

July 05, 2018
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(ANIL KSHETARPAL)
JUDGE

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