

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

FAO No.5541 of 2017(O&M)

Date of decision: 9.2.2018

Jas Pal

.....Appellant

VERSUS

Chanderhass and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Inderjeet Sharma, Advocate and
Mr. Vishal Ranjan, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

CM No.18001-CII of 2017

Prayer in this application is for condoning delay of 52 days in filing the appeal.

Heard.

In view of averments made in the application supported by an affidavit of Jas Pal – appellant, the application is allowed. Delay of 52 days in filing the appeal stands condoned.

Disposed of accordingly.

FAO No.5541 of 2017

The present appeal directs challenge against award dated 16.02.2017 passed by the Motor Accidents Claims Tribunal, Rewari (in short 'the Tribunal') whereby compensation has been awarded on account of death of Mohar Singh in a motor vehicular accident that took place on 10.08.2012..

The Tribunal has awarded compensation to the tune of Rs.3,25,040/ represented in a tabulated form in para 18, quoted thus:-

Income of deceased per month	Rs.5,000/-
Less 1/3 rd (deducted for personal expenses of deceased) (Rs.5000/- - Rs.1666/-)	Rs.3334/-

Net loss of annual income (3334 x 12)	Rs.40,008/-
Multiplier	5
Loss of dependency (40008 x 5)	Rs.2,00,040/-
Loss of love and affection, petitioner No.4	Rs.100000/-
Funeral expenses	Rs.25000/-
Total	Rs.3,25,040/-

Counsel for the appellant (registered owner of the vehicle) has fairly informed that award has been challenged on two counts. The first submission made by counsel is that as the vehicle in question stood sold by the appellant to Kamlesh son of Abhimanyu – respondent No.6 prior to the occurrence, Tribunal has wrongly fastened liability upon the appellant. It is argued that the appellant placed on record copy of Ex.RW1/C to prove his plea with regard to sale of vehicle in question in favour of Kamlesh.

To challenge quantum of compensation assessed by the Tribunal, the sole submission made by counsel is that the Tribunal has granted loss of love and affection of Rs.1,00,000/- in favour of claimant No.4 whereas no such compensation is available in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC 1270.**

The plea of the appellant that he is not liable to pay compensation has rightly been negated by the Tribunal by placing reliance upon judgment of Hon'ble the Supreme Court **Dr. T.V. Jose Vs. Chacko P.M., 2002(1) RCR (Civil) 120** and **Pushpa @ Leela and others Vs. Shakuntla and others, AIR 2011 SC 682.** The view taken by the Tribunal stands confirmed by the latest judgment of Hon'ble the Apex Court in Naveen Kumar Vs. Vijay Kumar and others, Civil Appeal No.1427 of 2018 decided on 06.02.2018. This apart, the Tribunal has rejected plea of the appellant that the vehicle in question stood sold by him to Kamlesh – respondent No.6 in view of findings recorded in para 21 of

the award. Counsel for the appellant is not in a position to assail factual findings recorded in para 21. In this view of the matter, no error much less illegality can be noticed in the award fastening liability to pay compensation against registered owner of the vehicle.

So far as plea of the appellant that the Tribunal has wrongly allowed an amount of Rs.1,00,000/- for loss of love and affection, the same is meritorious as no compensation under this head is available in the light of latest judgment of Hon'ble the Supreme Court in **Pranay Sethi and others case** (supra). However, the Tribunal has awarded Rs.25,000/- for funeral expenses but no compensation has been allowed for loss of estate. In the light of judgment in **Pranay Sethi and others case** (supra), claimants shall be entitled to Rs.30,000/- under conventional heads i.e. Rs.15,000/- for expenses on funeral and another Rs.15,000/- for loss of estate. In this manner, compensation awarded by the Tribunal is reduced to the extent of Rs.95,000/-.

The appeal is partly allowed in the aforesaid terms.

Before parting with this order, it is pertinent to mention here that amount of compensation assessed by the Tribunal has been reduced without notice to the claimants. They would be at liberty to file an appropriate application if they have any grievance to express. It is further clarified that in case the claimants file an appeal for enhancement, any observation made for disposing of the appeal filed by the insurance company would not cause prejudice to their rights.

FEBRUARY 9, 2018

'D. Gulati'

Whether speaking/reasoned :

Whether reportable :

(REKHA MITTAL)

JUDGE

yes/no

yes/no