

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

**FAO No.7094 of 2017 (O&M)
Date of decision: 23.02.2018**

Harnek Kaur and others

....Appellants

Versus

Ravinder Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the appellants.

RITU BAHRI J. (Oral)

CM No.22804-CII of 2017

For the reasons mentioned in the application, same is allowed and delay of 50 days in filing of the appeal is condoned.

FAO No.7094 of 2017

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 20.12.2016, on account of death of Darshan Singh in a motor vehicular accident which took place on 11.06.2016. Appellant No.1 is widow and appellant Nos.2 to 5 are children of deceased Darshan Singh.

Brief facts of the case are that on 11.06.2016, at about 10.00 P.M., Darshan Singh (since deceased) along with Maninder Singh-claimant No..2 was going towards his house at village Derri on a motorcycle bearing registration No. PH-65-AE-6970. The motorcycle was being driven by

Maninder Singh. When they reached opposite village Choumajra and Premgarh, a Mahindra Pick-Up van bearing registration No. HR-04-B-6881 being driven by respondent No.1 Ravinder Kumar in a rash and negligent manner, came from the opposite side and struck against the motorcycle, both the occupants of motorcycle namely Maninder Singh and Darshan Singh fell down and suffered multiple grievous injuries. Darshan Singh was taken to Government Medical College and Hospital, Sector 32, Chandigarh, where the doctors declared him brought dead. With regard to the incident, FIR No.154 dated 12.06.2016, under Sections 279/304-A/427 IPC was registered at Police Station, Sohana, District SAS Nagar, 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 Maninder Singh (PW-1), who was eye witness of the accident and on whose statement FIR Ex.P1 was recorded. Further, the claimants have proved on record copy of postmortem report Ex.P2.

Darshan Singh-deceased was working as Cable Operator/Technician with Fastway Channel, 3 B-II, Mohali, Punjab and was getting Rs.12,000/- month as salary and Rs.3000/- as over time. Salary certificate of Darshan Singh, in this regard, has been proved as Ex.P5.

Accordingly, income of the deceased was assessed as Rs.15,000/- per

month. In this income 30% has been added on account of future prospects and total monthly income of deceased came to Rs.19,500/- (Rs.15,000 + Rs.4500 (30%). Annual income became to Rs.2,34,000/-.The Tribunal has observed that claimant Nos. 2 to 4 being major children, were not dependent upon the deceased. Therefore, they were not held entitled to get any compensation. Only claimant No.1 (widow) and claimant No.5 (minor daughter) were held entitled to get the compensation. Out of the total income of deceased, 1/3rd was deducted towards his personal expenses. Dependency of the claimants came to Rs.1,56,000/- per annum (Rs.2,34,000 - 78,000/-). As per postmortem report, deceased was 47 years of age at the time of accident/death. Accordingly, multiplier of 13 was applied. After applying the multiplier of 13, dependency of claimant Nos.1 and 5 came to Rs.20,28,000/- (1,56,000 x 13). In addition to it, Rs.1,00,000/- were awarded to claimant No.1 (widow) on account of loss of consortium, Rs.1,00,000/- to claimant No.5 (minor daughter) as loss of love, care and guidance and Rs.25,000/- as funeral expenses. Hence, the claimant Nos.1 and 5 were found entitled to total compensation of Rs.22,53,000/- 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.

Dismissed.

(RITU BAHRI)
JUDGE

23.02.2018
ajp

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