

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

F.A.O No. 4726 of 2009 (O&M)

Date of decision:- 23.09.2019

Mahinder Kaur and ors.

...Appellants

Versus

Harpartap Singh and anr.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Lalit Kumar, Advocate
for the appellants

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the appellants, against award dated 10.12.2008 passed by the learned Motor Accident Claims Tribunal, Ferozepur (for short, 'the Tribunal') under Section 163-A of the Motor Vehicles Act whereby the claim petition was dismissed.

FACTS NOT IN DISPUTE

On 28/29.10.2004, Didar Singh was driving the truck bearing registration No. PB29D-9592 and was going from Kot Ise Khan to Makhu. When he reached in the area of village Dulewala at about 11 p.m, a truck bearing registration No. HR58-9897 came from the opposite side and hit the truck of Didar Singh.

3. The learned counsel for the claimant-appellant contends that the learned Tribunal has erred in law in dismissing the claim petition of the claimants/appellants on the ground that the claimants are entitled to claim compensation under the Workmen Compensation Act if permissible under the law, as the claimants have not placed on record the driving licence of Didar Singh. They have further failed to prove that Didar Singh was employed with respondent No. 1. No F.I.R has been registered. The claim

petition has wrongly been dismissed on the ground that author of the DDR i.e Baljit Singh was not examined by the claimants

4. I have heard learned counsel for the appellant and perused the record.

5. This Court is of the view that the present appeal is liable to be allowed firstly as per post mortem report Ex P1, it is clear that the deceased died due to the injuries suffered by him in the accident. As per PMR, the injuries were anti mortem in nature and were sufficient to cause death in ordinary course. Secondly, Sucha Singh P.W.2 had clearly described the occurrence and merely on the ground that Sucha Singh in his cross examination has stated that he does not know with whose negligence the accident took place, the claim petition should not have been dismissed. Further DDR was also registered in this case. All this material was sufficient enough to conclude that the accident had taken place and the deceased died due to the injuries suffered by him in the accident.

6. The compensation has to be assessed as follows:-

<i>HEAD</i>	<i>COMPENSATION AMOUNT</i>
<i>Notional income</i>	<i>Rs.40000 per annum</i>
<i>Compensation after multiplier of 17 (deceased was 26 years of age)</i>	<i>40000X17=Rs.6,80,000/-</i>
<i>Conventional heads</i>	<i>Rs.9500/-</i>
<i>TOTAL COMPENSATION AWARDED:-</i>	<i>Rs.06,89,500/-</i>

7. Accordingly, the appeal is allowed and award dated 10.12.2008 passed by the learned Motor Accident Claims Tribunal, Ferozepur is set aside. The appellants are entitled to compensation of Rs.6,89,500/-, which shall be payable within a period of forty five days from the from the date of receipt of certified copy of this order. The appellants shall also get interest @ 9% in view of judgment of Hon'ble the Apex Court in Civil Appeal No.

4528-2019 titled as ***Dara Singh @ Dhara Banjara vs. Shyam Singh***

Varma and ors, decided on 01.05.2019 from the date of filing of the claim petition. The respondents shall be jointly and severally liable to pay the award amount.

23.09.2019
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No