

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

F.A.O. No. 4630 of 2016

DATE OF DECISION :- December 09, 2019

Kamlesh and others

...Appellants

Versus

Ram Rattan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAN

Present:- Mr. Tarun Singhal, Advocate for the appellants.

Mr. R.N. Singal, Advocate for respondent No.3.

Briefly stated the facts of the case are that on account of death of Krishan Lal, in a motor vehicular accident, which took place on 29.10.2014 at about 8/8.15 P.M. near link road turn towards village Ganauli from Ambi road, statedly on account of rash and negligent driving of motor cycle bearing registration No. HR-71-C-8265 make Bajaj Platina, legal heirs/legal representatives of deceased namely his widow Smt. Kamlesh, aged about 52 years, daughter Rimpi, aged about 23 years and son Naresh Kumar, aged about 33 years, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Ram Rattan-driver, Tony-owner and National Insurance Company Ltd., Ambala-insurer of motor cycle bearing registration No. HR-71-C-8265 (hereinafter referred to as the offending vehicle), claiming compensation to the tune of Rs.30 lacs.

On being put to notice, all the three respondents appeared and filed written statements contesting the claim petition. Issues on merits were framed and parties were afforded adequate opportunities to lead evidence.

On conclusion of trial, Motor Accidents Claims Tribunal, Ambala,

vide Award dated 20.11.2015 accepted the claim petition and awarded compensation of Rs.4,61,000/- to the claimants with interest at the rate of 7.5% per annum from the date of filing of claim petition till actual realization. The liability was held to be joint and several of all the respondents. The detailed direction with regard to apportionment of the compensation amount and mode and manner of the payment of the same are given in the Award.

The claimants were not satisfied with the compensation awarded to them by the Motor Accidents Claims Tribunal, Ambala and have brought the present appeal seeking enhancement of compensation.

Notice of the appeal was given to the respondents but only respondent Insurance Company has put in appearance through its counsel.

I have heard learned counsel for the parties besides going through the record.

Learned Tribunal on analysis of the evidence adduced before it had come to the conclusion that the accident in which Krishan Lal had lost his life had taken place due to rash and negligent driving of offending motor cycle by respondent No. 1. This finding was proper and appropriate and does not call for any interference. It being so, respondent No. 1 being driver, respondent No. 2-owner and respondent No. 2 Insurer of the offending motor cycle were rightly held to be jointly and severally liable to pay the compensation.

While quantifying the compensation the Tribunal had taken age of the deceased to be 62 years keeping in view his date of birth as entered in the Aadhar Card to be 1.1.1953. The accident had taken place on 29.10.2011. In that way the deceased was aged little less than 62 years. Though learned counsel for the claimant has contended that he was aged about 55 years but the Tribunal by detailed analysis of the evidence has rightly taken age of the deceased to be 62 years. As per case of claimants the deceased was running a welding shop earning Rs.30,000/- per month but due to lack of cogent and convincing evidence adduced

by the claimants those contentions were not accepted and his income was taken to be that of a labourer i.e. Rs.6000/- per month. Of course, no fault can be found with approach of the Tribunal in doing so. The annual income was taken to be Rs.72,000/-(6000 x 12). 1/3rd the amount was deducted towards personal and living expenses of the deceased. That was rightly done and dependency of the claimants was worked out to be Rs.4000/- per month, annual dependency coming out to Rs.48,000/-(4000 x 12). In view of the fact that deceased was aged more than 60 years, no amount was added towards future prospects. Then multiplier of 7 was correctly applied by the Tribunal and compensation of Rs.3,36,000/- was arrived at. Rs.25,000/- was awarded towards funeral expenses and transportation charges besides Rs.1 lac to widow of the deceased on account of loss of consortium making it to be total Rs.4,61,000/-.

Under the circumstances, the compensation awarded is just and adequate and no ground is there to enhance the same. Therefore, the appeal is without merit and is dismissed accordingly.

(H.S. MADAAN)
JUDGE

December 09, 2019
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No