

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-531-2017

Date of decision: 17.09.2019

Asha Sharma and another

..... Appellants

Versus

Ram Chander and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Amit Jaswal, Advocate for the appellants.

Mr. Ajay Singla, Advocate for respondent No. 3.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, appellant-claimants sought enhancement of compensation modifying impugned Award dated 16.05.2016 of Motor Accident Claims Tribunal, Chandigarh (for short-'the Tribunal), awarding them compensation to the tune of ₹13,39,800/- along with interest @ 6% per annum from the date of filing of claim petition till realization, on account of death of-Balwinder Kumar.

Briefly, deceased-Balwinder Kumar, in the night of 19.10.2015, driving his scooter was coming home from Mohali. When, he reached near petrol pump of village Mundi Kharar grain market,

respondent No. 1-Ram Chander, driving offending motorcycle bearing registration No. PB-65-R-9576, in a rash and negligent manner and also in zig zag manner dashed into his motorcycle. As a result thereof, he fell down on the road and received multiple grievous injuries, including head injury and succumbed to the same on 27.10.2015 in hospital i.e. after 7-8 days.

Being aggrieved, his widow and minor daughter filed claim petition under Section 166 of the Motor Vehicles Act, 1988, before the Tribunal, who after holding trial accepted same and awarded compensation of ₹13,39,800/- in the manner as narrated above, vide Award, impugned herein.

Relying upon prescribed wages circulated by Punjab Government for the relevant period, learned counsel for appellant-claimants urged that learned Tribunal has erred in not taking monthly income of deceased as that of staff of 'A' category at ₹12,116/-, inasmuch as, as per deposition of PW-3 Sahil Gupta, employer of deceased, deceased was working as a sales executive with him, drawing monthly salary of ₹17,000/- per month i.e. ₹2,04,000/- per annum. Learned Tribunal also failed to appreciate that in income-tax return for the year 2015-16 Ex. P-9, PW-3 Sahil Gupta, has shown annual salary of deceased-Balwinder Kumar, at ₹2,04,000/-.

On the other hand, learned counsel for respondent No. 3-Insurance Company, refuting the above submissions contends that deceased was not a educated person. He was simply a labourer. Thus, his income could not have been taken more that ₹7716/-, on the basis of

wages prescribed by Labour Commissioner, Punjab for the relevant period. As per calculations (Mark-B) furnished by him, the appellant-claimants are entitled for compensation to the tune of ₹11,50,240/-, whereas learned Tribunal has already awarded compensation of ₹13,39,800/- i.e. ₹1,89,560/- in excess. Therefore, this appeal is liable to be dismissed.

Having given thoughtful consideration to the rival submissions, this Court is of the considered view that income of deceased atleast ought to have been taken by the Tribunal, treating him as a staff of 'B' category, whose minimum wage prescribed at the relevant time was ₹401.83P per day, in the absence of production of any evidence in this regard, inasmuch as, in case deceased would have been a qualified person, he could have been considered as staff of 'A' category, whose prescribed minimum wage at the relevant time was at ₹466.03 per day.

Therefore, relying upon calculations (Mark-A), submitted by learned counsel for the appellant-claimants, they are held entitled to compensation of ₹17,66,380/- less ₹13,39,800/- i.e. ₹4,26,580/- more over and above the aforesaid amount awarded by the learned Tribunal, vide Award impugned herein. Respondent No. 3-Insurance Company, through its counsel is directed to deposit the aforesaid enhanced amount of compensation before the learned Tribunal within one month from today, along with up-to-date interest @ 7.5% per annum from the date of filing of claim petition till realization, for onward disbursement to the claimant-appellants, in proportion so arrived at by it, in accordance with

law against proper receipt and identification.

In case aforesaid enhanced amount is not deposited within stipulated time, Insurance Company would be liable to pay the same with interest @15% from the date of institution of claim petition till realization.

Disposed of.

September 17, 2019
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(RAMENDRA JAIN)
JUDGE

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