

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

CM No. 11975 CII of 2018 in/and
FAO No. 3158 of 2018 (O&M)
Date of decision: 9.5.2019

Sidhant and others

...Appellants

Versus

Rajesh Kumar and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. JS Saneta, Advocate,
for the appellants.

JAISHREE THAKUR, J.

CM No. 11975 CII of 2018

This is an application that has been filed for condonation of 12 days' delay in filing the appeal.

For the reasons stated in the application, which is supported by an affidavit, the delay in filing the appeal is condoned.

CM stands disposed of.

Main case

This appeal seeks to challenge the award dated 14.11.2017 passed by the Motor Accident Claims Tribunal, Panipat, wherein the appellants herein have been allowed compensation of ₹13,85,440/- on account of death of Ravi Chhokar.

In brief, the facts are that on 14.8.2015, deceased Ravi Chhokar and one Sonu were returning to their village Naraina by motor cycle No.

HR-06P-2296. When they reached at Diwana Road, a Maruti Suzuki EECO van bearing registration No. HR-10R-9890, being driven by respondent No.1 in rash and negligent manner, hit their motorcycle, as a result of which, Ravi Chhokar and Sonu received multiple injuries and ultimately Ravi Chhokar succumbed to the injuries. It was alleged that the accident took place due to the rash and negligent driving of respondent No.1 and consequently FIR 972 dated 15.8.2015 came to be lodged with the Police Station Chandni Bagh, Panipat. With these averments, a claim petition was filed by the parents, widow and minor daughter of the deceased claiming they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was working with Kanodia Global Pvt. Ltd., Pasina Khurd Road, Sewah, District Panipat and was earning ₹18,500/- per month. Apart from that he was earning ₹10,000/- per month from agriculture work.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections that the petition was not maintainable, no cause of action has accrued etc. Issues were framed and thereafter oral as well as documentary evidence was led by the parties.

After scrutiny of the evidence brought on record, the Tribunal held that the the accident was the result of rash and negligent driving of respondent No.1 and on assessment of the facts and evidence before it allowed compensation of ₹13,85,440/- which has been now challenged in the instant appeal.

Learned counsel for the appellants submits that the amount of compensation awarded by the Tribunal is on the lower side and as such the

compensation amount awarded to the appellants deserves to be enhanced. It is submitted that the Tribunal has erred in assessing monthly income of the deceased as ₹6500/-. It is submitted that in fact the deceased was working with Kanodia Global Pvt. Ltd. Siwah and was getting salary of ₹18,500/- per month.

I have heard learned counsel for the appellants and have perused the impugned award.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 24 years of age and assessed his earning ₹6500/- per month. While assessing the income of the deceased, the Tribunal held that “...*The claimants have also examined PW6 Ajay Sharma, HR Manager Assistant, Kanodia Global Pvt. Ltd. who has proved salary certificate Ex. P13 and stated that the deceased was employee of his company and worked as knitting machine operator. However, no record like appointment letter, attendance register and salary register etc. has been produced to prove that the deceased was actually working in the said company. Further a perusal of the salary certificate Ex. P13 shows that deceased Ravi Chhokar had only worked in Kanodia Global (P) Ltd. From 1.8.2015 to 14.8.2015. In the absence of any record regarding employment of the deceased with the said company, no reliance can be placed on the salary certificate Ex. P.13...*” The Tribunal further following the law laid down by the Hon'ble Supreme Court in **Sarla Verma and others Versus Delhi Transport Corporation and another (2009) 6 SCC 121** and **National Insurance Company Limited Vs. Pranay Sethi and others 2017**

(4) R.C.R. (Civil) 1009, added 40% towards future prospects and further

deducted 1/4th amount towards personal and living expenses of the deceased. In the absence of any documentary evidence with regard to the actual income of the deceased, the Tribunal has rightly assessed his income as ₹6500/- per month. In view of the fact that the deceased was 24 years of aged at the time of occurrence, the multiplier of 18 has rightly been applied and awarded the amount of compensation, as mentioned above.

From a bare reading of the impugned award, this Court is of the view that the findings recorded by the Tribunal are based on the proper appreciation of the evidence brought on record and cannot be said to be perverse. There is no scope for any further enhancement. The award passed by the Tribunal is just and proper and no interference is called for in the same.

Consequently, the appeal filed by the the appellants being devoid of merit stand dismissed.

9.5.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No