

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

F.A.O. No. 3563 of 2018(O&M)

Date of Decision: 22.07.2019

Aroona Devi and others

.....Appellants.

Versus

Talim and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Jitender Kaushik, Advocate
for Mr. R.K.Saini, Advocate
for the appellants.

LISA GILL, J (Oral).

Appellant-claimants, seek enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Karnal (for short 'tribunal'), vide impugned award dated 09.11.2017, on account of death of Arvind Kumar @ Arvind.

Appellants-claimants are the widow, minor children and mother of the deceased.

As per averments in the claim petition filed under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Arvind Kumar @ Arvind on 14.11.2016, was employed with Rational Business Corporation (Private) Limited, Sonapat as a conductor-cum-cleaner. He along with Sanjay, driver of the said company, were going to Paonta Sahib (HP) in vehicle bearing registration no. HP-17-D-2564. The said vehicle was driven by Sanjay and Arvind Kumar @ Arvind being a conductor, was sitting in the cabin of the said vehicle. At about 11.45.p.m., when they reached near Maharaja Dhaba on Indri-Ladwa, road, the offending tractor trolley loaded with poplar trees, was standing parked on the road without any indication of its presence. As a

result thereof, conductor side of Canter No. HR-17-D-2564, struck against the back of the offending trolley and the cabin of the canter was damaged. As a result thereof, Arvind Kumar @ Arvind, received serious and grievous injuries on vital parts of his body. Arvind Kumar @ Arvind was taken to KCGMCH, Karnal , where he succumbed to his injuries. FIR No. 439 dated 15.11.2016, under Sections 283, 304-A IPC, Police Station Indri, was registered against respondent no.1, in this respect.

Learned Tribunal concluded that the accident in question was caused due to wrong parking of the offending vehicle by respondent no.1- Talim. Said finding of the learned tribunal has attained finality.

Learned tribunal while holding the deceased to be 40 years old, assessed his income as ₹10,520/- per month and awarded a total sum of ₹18,45,160/-, which is detailed as under:-

1.	Total income of deceased	₹10,520/- p.m.
2.	Deduction	1/ 4 th
3.	Multiplier	15
4.	Future prospects	25%
5.	Loss of consortium to appellant no.1	₹40,000/-
6.	Loss of estate	₹15,000/-
7.	Funeral expenses	₹15,000/-
	Total	₹18,45,160/-

Learned counsel for the appellants vehemently argues that income of the deceased has not been correctly assessed. Moreover, compensation under the conventional heads is meagre. It is thus prayed that the amount of compensation awarded to the appellants be enhanced accordingly.

I have heard learned counsel for the appellants and have gone

through the record with his assistance.

Learned counsel for the appellants is unable to deny that there is indeed no evidence on record to indicate that the deceased was earning an income higher than what has been assessed by the learned tribunal. He is unable to point out any evidence on record for enhancement of the compensation already awarded by the learned tribunal especially in terms of the judgement of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Ors. 2017(4) R.C.R.(Civil) 1009.**

No other argument has been raised.

Learned counsel for the appellants is unable to point out any illegality or infirmity in the impugned award dated 09.11.2017, passed by the learned tribunal, Karnal, which calls for interference by this Court, at the instance of the appellants.

There is a delay of 51 days in filing of this appeal. Keeping in view the fact that the matter has been adjudicated on merits, question of delay in filing of this appeal has been rendered academic. Application is accordingly disposed of.

Appeal is accordingly dismissed with no order as to costs.

22.07.2019
s.khan

[LISA GILL]
Judge

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