

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5380 of 2018 (O&M)

Date of Decision: 05.03.2019

Pooja and others

.....Appellants

Versus

Sandeep @ Basant and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Yashveer Kharb, Advocate
for the appellants.

AVNEESH JHINGAN, J.(oral)

The award dated 27.11.2017 passed by Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal') has been assailed by the claimants seeking enhancement of compensation awarded under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

The appeal is accompanied by an application for condonation of delay of 124 days in filing the appeal.

The facts in brief are that on 31.7.2015 Lokesh along with his cousin Sanjeev loaded ply-board in Canter No.HR-45-B-5116 from Taraori and left for Faridabad. A truck bearing registration No. HR-38-Q-2884 (hereinafter referred to as 'the offending vehicle'), was parked in the middle of highway without any indicator. There the canter struck against the truck and Lokesh died at the spot. FIR No. 1086 dated 1.8.2015 was registered at Police Station City Panipat.

In the claim petition, it was pleaded that the deceased was 24 years old and was a heavy vehicle driver. His monthly income was claimed as ₹ 15,000/-. The claimants failed to prove the occupation and earning of the deceased. The Tribunal after considering the fact that at the time of accident the deceased was driving a canter, considered him to be a skilled labourer and assessed his monthly income as ₹ 6200/- relying upon the minimum wages prevalent in the State for skilled labourer; 40% future prospects were awarded; ¼ deduction for self-expenses was made; multiplier of 18 was applied and ₹ 70,000/- was awarded under conventional heads. The Tribunal awarded a sum of ₹ 14,76,160/- alongwith interest at the rate of 7.5% per annum. The Tribunal after considering the facts and appreciating the evidence adduced held that the accident was caused due to negligent parking of the offending vehicle. The owner, driver and insurer of the offending vehicle were held jointly and severally liable to pay compensation.

Learned counsel for the appellants raised only one issue that the monthly income assessed by the Tribunal is on the lower side as the deceased was a driver.

The contention raised lacks merit. The claimants failed to prove the occupation and monthly earning of the deceased. It has come on record that the driving licence of deceased was not produced yet the Tribunal has considered the fact that he was driving the Canter and considered him to be a skilled labourer and relied upon the minimum wages prevalent in the State of Haryana at the time of accident. As there is nothing on record to prove the monthly earning of the deceased, the monthly income assessed by the

Tribunal calls for no interference.

The appeal is accordingly dismissed in liminie.

As the appeal is being dismissed in liminie, the question of limitation is kept open.

05.03.2019

reema

(AVNEESH JHINGAN)
JUDGE

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

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Whether Reportable:	No