

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

FAO No.5945 of 2018 (O&M)

Date of decision: 28.08.2019

Raj Rani

....Appellant

Versus

Anil Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vineet Chaudhary, Advocate,
for the appellant.

RITU BAHRI J. (Oral)

CM No.20885-CII of 2018

For the reasons mentioned in the application, same is allowed and delay of 09 days in filing of the appeal is condoned.

FAO No.5945 of 2018

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 04.04.2018 on account of death of Joginder Singh in a motor vehicular accident which took place on 23.02.2015. Appellant is widow of deceased Joginder Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.02.2015, the family of Joginder Singh (since deceased) had gone in a marriage party at Dream Land Resort, Landra Road, District Mohali and after attending the said marriage, they were coming back in Maruti Ertiga car bearing registration

No. HR-01-AJ-8191, which was being driven by Gurwinder Singh. Joginder Singh was sitting on the front seat of the car. At about 12.00 A.M., when they reached near village Khador on Banur-Tepla road, a truck bearing registration No. HR-37-A-2846 was standing in the middle of the road without any reflector or indicator. Due to this, Ertiga car hit with the said truck from behind, as a result of which, Kanwaljit Kaur, Bhupinder Kaur, Joginder Singh, Gurwinder Singh and Mankirat Kaur alias Alisha sustained injuries. Joginder Singh was got admitted to PGI, Chandigarh. Later on, Joginder Singh succumbed to the injuries. With regard to the incident, FIR No.15 dated 24.02.2015, under Sections 283/337/427IPC was registered against driver-Nirmal Singh at Police Station, Banur. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of negligent act of Nirmal Singh-respondent No.2 (in claim petition) while parking the offending vehicle in the middle of the road without any indication. This finding was rightly given on the basis of deposition of Kanwaljeet Kaur (PW-1), Bhupinder Kaur (PW-6) and Mankirat Kaur (PW-7).

On the basis of income tax return Ex.P28, income of the deceased was assessed as Rs.2,77,152/- per annum, out of which, one-third amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.1,84,768/- per annum. As per postmortem report, deceased was 70 years of age at the time of death/accident. Accordingly, multiplier of 05 was applied. After applying the multiplier of 05, dependency of claimant came to Rs.9,23,840/- (1,84,768 x 05). In

addition to it, Rs.40,000/- were awarded towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. Hence, the claimant was found entitled to total compensation of Rs.9,93,840/-, rounded off Rs.9,93,900/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

I have heard learned counsel for the appellant and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Parties are not in dispute with respect to the finding given by Tribunal on issue No.1 that the accident had taken place due to negligence of driver of the offending vehicle.

After hearing learned counsel for the appellant and going through the impugned award, this Court is of the view that income of the deceased has been rightly assessed by the Tribunal. Even, the multiplier has been rightly applied keeping in view the age of deceased. Compensation under other heads has also been rightly awarded in favour of the claimant. No further modification is required to be done in this case. Hence, no ground is made out to interfere in the impugned award.

Resultantly, finding no merits, present appeal is dismissed.

(RITU BAHRI)
JUDGE

28.08.2019
ajp