

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

CM No. 22111 CII of 2018 in/and
FAO No. 6340 of 2018 (O&M)
Date of decision: 10.4.2019

Sheetal Singh and another

...Appellants

Versus

Suresh Chander and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Ashit Malik, Advocate,
for the appellants.

JAISHREE THAKUR, J.

CM No. 22111 CII of 2018

This is an application that has been filed for condonation of 38 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 22.3.2018 passed by the Motor Accident Claims Tribunal, Karnal, wherein the appellants herein have been allowed compensation of ₹16,20,700/- on account of death of their son Didar Singh.

In brief, the facts are that on 1.10.2016 deceased Didar Singh, aged 23 years, and one Ravi Kumar had gone to G.T. Road, Baldi Bye Pass

towards Karan Lake, Karnal, to repair vehicle bearing registration No. HR-45D-9104, which was parked there due to mechanical break down. When both of them were standing near the said vehicle, they were hit by truck bearing registration No. HR-69B-9417 being driven by respondent No.1 in rash and negligent manner, as a result of which, Didar Singh and Ravi Kumar received multiple injuries and ultimately 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 884 dated 1.10.2016 came to be lodged with the Police Station Sadar, Karnal. With these averments, claim petition was filed by the parents of the deceased claiming they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was working as a Mechanic and was earning ₹20,000/- per month.

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 ₹16,20,700/- 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 treating the deceased Didar Singh as labourer and assessing his monthly income as ₹10,520/-. It is submitted that in fact the deceased was a mechanic and was earning ₹20,000/- per month.

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

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 22-1/2 years of age and was earning ₹10,520/- per month. 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 while holding that the deceased was unmarried, deducted 50% towards personal and living expenses of the deceased. In the absence of the documentary evidence with regard to the actual income of the deceased, the Tribunal has rightly treated the deceased as a labourer and assessed his income as ₹10,520/- per month. In view of the fact that the deceased was 22-1/2 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.

10.4.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No