

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

F.A.O. No. 2289 of 2016

DATE OF DECISION :- July 25, 2019

Fajri and others

...Appellants

Versus

Shokeen and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Sarfraj Hussain, Advocate for the appellants.

Mr. Pankaj Mehta, Advocate
for respondent No. 3-Insurance Company.

On account of death of Hasam, in a road side accident, which took place on 21.8.2014 at about 4.30 A.M., near Science and Math School Madhi, District Mewat statedly on account of rash and negligent driving of dumper bearing registration No. HR-74A-1943 by respondent No. 1 Shokeen, legal representatives of deceased namely his widow Fajri, aged about 40 years, son Mohd. Javed, aged about 20 years, minor daughters Irfana, aged about 16 years, Israna, aged about 13 years and Naima, aged about 6 years, minor sons Mukarram and Naim, aged about 10 years and 6 years, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Shokeen-driver, Abdul Karim-owner and Magma HDI General Insurance Company Magma, Kolkata-insurer of dumper bearing registration No. HR-74A-1943 (hereinafter referred to as the offending dumper), claiming compensation to the tune of Rs.25 lakhs.

On notice, all the three respondents appeared and offered a contest. The parties were given opportunities to lead evidence in respect of their respective stand.

After hearing arguments advanced by learned counsel for the parties, the Motor Accident Claims Tribunal, Mewat vide Award dated 9.11.2015 awarded compensation of Rs.12,10,755/- to petitioners-claimants No. 1, 3 to 7 payable by respondents jointly and severally with interest at the rate of 9% per annum from the date of filing of claim petition till actual realization. The claimants being of the view that compensation awarded to them was on lower side has approached this Court by way of filing an appeal, notice of which was given to respondent No. 3-Insurance Company only which has put in appearance.

I have heard learned counsel for the parties besides going through the record.

The Tribunal on the basis of oral as well as documentary evidence has decided issue No. 1 in favour of the claimants and against the respondents holding that respondent No. 1 Shokeen was the author of accident by his rash and negligent driving of the offending vehicle resulting in death of deceased Hasam. This finding has been correctly recorded and does not call for any interference. With regard to the quantum of compensation, the Tribunal taking the age of the deceased to be 40 years referring to entry in that regard in his post mortem report Ex.P7 treated him as a skilled labourer and in view of the letter issued by Labour Commissioner, Haryana assessed his monthly income as Rs.6067.10/-. Since record keeper of GM Roadways, Gurgaon had deposed that deceased had remained in service of department till 31.1.2014 only, meaning thereby that he was not in service at the time of accident. It was

properly done by the Tribunal. 30% of the amount has been added towards future prospects and then compensation has been awarded under conventional Heads. The addition of the amount towards future prospects and under conventional Heads is certainly not on lower side though it is on somewhat the higher side but in absence of any cross objection by the Insurance Company or cross appeal filed by any of the respondents, the amount is directed to be kept intact. The compensation awarded as Rs.12,10,755/- is just, adequate and no reason is there to enhance the same.

The appeal is found to be without any merit and is dismissed accordingly.

(H.S. MADAAN)
JUDGE

July 25, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No