

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

FAO No. 2720 of 2020 (O & M)
Date of decision: 08.07.2020

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Regional Manager, Etawah Dept. UPSRTC

....Petitioner(s)

Versus

Smt. Kursidan and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Sandeep Kotla, Advocate,
for the appellant.

(Proceedings are being recorded through
video conferencing, as per instructions).

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 7202-CII of 2020

Application has been filed for condonation of delay of 13 days
in filing the appeal.

Keeping in view the averments made supported by affidavit of
official, the same is allowed.

Delay condoned.

FAO No. 2720 of 2020 (O & M)

The present appeal is directed against the award of the MACT,
Palwal dated 20.11.2019 filed by the owner of the vehicle which was
involved in the accident which took place on 13.12.2017, in which, two
persons namely Salman and Hamid who were travelling in the three wheeler
had died after the bus of the appellant had hit the said three wheeler. The

appellant is aggrieved against the amount of Rs.19,97,800/-, which was quantified on account of the death of Salman and which is to be paid to his legal heirs which include his wife, two minor children and his parents. The liability has been fixed upon the appellants on account of the fact that the accident had been noted by one Ikraail, a co-villager of the deceased and who had also appeared as PW-4 and was also the complainant in the FIR (Ex.P-4), which was registered on the next day of the accident.

The driver of the vehicle, Rajesh Kumar, appeared as RW-1 and admitted that he was on duty on the offending vehicle enroute from Etawah to Palwal and used to drive the bus to various cities like Agra, Mathura, Faridabad, Palwal, Delhi etc. He also admitted that he was driving the vehicle at around 9.00 to 9.30 p.m. when the accident took place and that he was driving the vehicle at a speed of 50 KMPH and that he had run away from the spot. In such circumstances, on account of the admission, the liability has been fixed upon the appellant being the owner of the vehicle as the vehicle was not insured as would be clear from the finding under issue No.3.

Deceased-Salman was stated to be an Electrician by profession and the claim was that his income was Rs.20,000/- per month and that he was 24 years of age at the time of his demise. He was running a shop in the name and style of Salman Auto Electrician situated at Transport Nagar, Ballabgarh. His wife Kursidan/respondent/claimant appeared as PW-1. However, the Tribunal took his income as Rs.8,500/- per month in the absence of any evidence that the income was as claimed by treating the deceased to be a labourer. The multiplier of 18 was applied keeping in view the law laid down by the Apex Court in ***Smt. Sarla Verma and others vs.***

Delhi Transport corporation and another, 2009 (6) SCC 121 and an addition of Rs.40,000/- on account of loss of future income was also added. The multiplier was fixed at 18 keeping the age of the deceased in mind on account of the judgment of the Constitution Bench in *National Insurance Company Ltd. vs Pranay Sethi and others, 2017 AIR (SC) 5157* to fix the loss of dependency at Rs.19,27,800/-. Additional loss of estate at Rs.15,000/- and funeral expenses and transportation expenses at Rs.15,000/- was granted alongwith loss of consortium to the wife which was assessed at Rs.40,000/-.

The MACT has, on the face of the appeal, as such, kept all the relevant principles in mind while fixing the compensation and assessing the income of the deceased and no illegality in the judgment could be pointed out by counsel for the appellant.

Accordingly, in such circumstances, this Court is of the opinion that in the peculiar facts and circumstances, once the driver of the vehicle admitted the fact that he was driving the vehicle and he was involved in the accident which led to the death of the deceased, the claim for compensation has rightly been assessed and allowed by the MACT. In the absence of any illegality or glaring irregularity in the well reasoned award, this Court is of the opinion that no case is made out for interfering in the same as the liability has rightly been fixed upon the appellant being the owner of the uninsured vehicle and the appeal is accordingly dismissed in limine.

08.07.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No