

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2175-2019 (O&M)
DATE OF ORDER: 14.12.2022

Manoj Devi and others

.....Appellants

Vs.

Dharam Chand and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. Satnam Singh Sishodia, Advocate for
Mr. B.K. Bagri, Advocate for the appellants.

Mr. Sudesh Kumar, Advocate for
respondents No.1 and 2.

Mr. Charanjit Singh, Advocate for
Mr. Nigam K. Bhardwaj, Advocate for respondent No.3.

Nidhi Gupta, J.

CM-6682-CII of 2019

This is an application under Order 41 Rule 1 read with
Section 151 CPC for exemption from filing certified copy of the Award dated
27.08.2018. For the reasons stated in the application, the same is allowed
subject to just all exceptions.

Main Case

This appeal has been filed by the claimants seeking
enhancement of compensation of Rs.41,27,536/- awarded to them by the
Motor Accident Claims Tribunal, Rewari (hereinafter referred to as the
“Tribunal”) in MACP Case No.498-2015 filed under Section 166 of the Motor

Vehicles Act, 1988 (hereinafter referred to as the “Act”). Claimants before the Tribunal were widow of the deceased - Satender, two minor children of the deceased being appellants No.2 and 3 herein, and parents of the deceased being appellants No.4 and 5 herein.

Learned Tribunal, on the basis of the pleadings of the parties and evidence led by them concluded that deceased-Satender had died in the motor vehicular accident that took place on 03.07.2015 due to the rash and negligent driving of respondent No.1-Dharam Chand while driving truck, owned by respondent No.2-Om Parkash, and insured by respondent No.3, bearing registration No.HR-67A-5372 (hereinafter referred to as the “offending vehicle”).

At the time of accident, the age of the deceased was taken to be 32 years on the basis of matriculation certificate of Satender in which his date of birth is mentioned as 07.02.1983. Income of the deceased was shown to be Rs.2,13,776/- per annum on the basis of ITR for the year 2013-14 Exhibit PW5/A; and Rs.2,41,520/- as per ITR for the year 2014-15 Exhibit PW5/B. Accordingly, the learned Tribunal took the income of the deceased to be Rs.2,41,520/- per annum. 40% was added to above income towards future prospects making income to be Rs.3,38,128/-; and a deduction of 1/4 was made in view of the fact that there are five dependents. Income of deceased was thus, calculated to be Rs. 2,53,596/- (Rs.3,38,128/- - Rs.84532/-). Since the deceased was 32 years of age multiplier of 16 was applied and accordingly, compensation was calculated as Rs.2,53,596 x 16 = Rs.40,57,536/-. Rs. 15,000/- was granted towards funeral expenses; Rs.15,000/- towards loss of estate; and Rs.40,000/- was granted to the

claimants on account of loss of consortium. Accordingly, total compensation of Rs.41,27,536/- was granted to the claimants-appellants along with interest at the rate of 7.5% per annum from the date of filing of the petition till realization. Further the respondents were held jointly and severally liable to pay the compensation amount.

The only short submission made on behalf of learned counsel for the appellants is that no filial or parental consortium has been awarded to the claimants.

The learned counsel for the respondent-Insurance Company is unable to dispute the above submission as the same is as per the law laid down by the Hon’ble Supreme Court in judgments i.e. **Sarla Verma Vs. DTC (2009) AIR SC 3104; National Insurance Co. Ltd. Vs. Swaran Singh (2004) 3 SCC 297 and National Insurance Co. Ltd. Vs. Pranay Sethi (2017) 16 SCC 297.**

In view of the above, the present appeal is allowed and the claimants are held entitled to the following additional compensation as hereinbelow:-

	Granted by MACT	Ought to be
Consortium	Rs.40,000/-	Rs.44,000 x 5 = Rs. 2,20,000/-
Funeral	Rs. 15,000/-	Rs. 16,500/-
Loss of Estate (10% increase after 4 years with 7.5% per annum interest)	Rs.15,000/-	Rs.16,500/-
Total	Rs. 70,000/-	Rs. 2,53,000/-
Already paid		-70,000/-

Enhanced to be paid		=1,83,000/-
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Accordingly, claimants are held entitled to Rs. 1,83,000/- more by way of enhancement. Interest at the rate of 7.5% per annum is maintained. Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants in the claim petition as determined by the learned Tribunal shall remain the same. Appeal is accordingly disposed of.

14.12.2022

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned

Yes

Whether reportable

Yes/No