

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

FAO No.1185 of 2002
Date of decision : 22.09.2022

Saroj Devi and Ors.

.....Appellants

VERSUS

Hakam Ali and ors.

.....Respondents

CORAM: HON'BLE MR JUSTICE HARKESH MANUJA

Present:- Mr. Bhupinder Singh Walia, Advocate, for the appellants.

Mr. Ritesh Aggarwal, Advocate, for respondent No.1.

Mr. Gopal Mittal, Advocate, for
respondent No.3-Insurance Company.

HARKESH MANUJA, J. (Oral)

The present appeal has been filed against the Award dated 28.09.2001 passed by learned MACT Panchkula.

The facts of the present case are that one Sukhdev Singh, lost his life in a road accident dated 13.05.1999, having been hit by the offending vehicle i.e., Truck No.PB-11-H-2739. At the time of accident the offending vehicle was being driven by respondent No.1. The appellants being dependents/claimants filed a claim petition before the learned Tribunal seeking compensation to the tune of Rs. 25,50,000/-. The appellants specifically alleged that accident in question took place on account of rash and negligent driving of respondent No.1.

On the other hand in their written statement, the stand taken by respondents No.1 and 2 was that no such accident took place on 13.05.1999 due to rash and negligent driving of respondent No.1. In the written statement, at the instance of respondent No.3, the factum of accident was altogether denied. The

learned MACT vide its impugned Award dated 28.01.2001, awarded a sum of

Rs. 5,20,000/- in favour of appellants/claimants along with interest @ 9% per annum from the date of filing of the petition till its realization. The learned Tribunal also held that the accident in question took place on account of rash and negligent driving of respondent No.1.

Aggrieved against the quantum of compensation awarded under the impugned Award, the present appeal has been filed with a prayer for enhancement of compensation.

Learned counsel for the appellants contends that though there is no dispute about the monthly salary of the deceased which has been determined as Rs. 4141/- based on Ex.P-4, he contends that learned Tribunal committed an error while assessing the compensation without awarding the benefit of future prospects towards the income. He submits that as the deceased was 29 years of age and was a salaried person, benefit of 40% towards future prospects was required to be awarded in his favour in view of law laid down by the Hon'ble Supreme Court of India in a case titled as ***National Insurance Company Ltd. vs. Pranay Sethi, reported in (2017) 16 SCC 680***. Relying upon the same judgment, he also submits that the compensation awarded under the conventional heads is also on the lower side.

On the other hand, in view of above referred law laid down by the Hon'ble Supreme Court, learned counsel for the respondent-Insurance Company has not been able to controvert the submissions made on behalf of appellants.

Having heard learned counsel for the parties and having gone through the records, I find merits in the submission made on behalf of learned counsel for the appellants. Once it has been established on record that the deceased at the time of accident was 29 years of age and was a salaried person,

the benefit of future prospects @ 40% was required to be awarded to the

claimants. In addition, the appellants being the widow and two children of the deceased were required to be awarded consortium @ 44,000/- each (towards spousal and parental consortium). Besides awarding another sum of Rs. 16,500/- towards loss of estate and Rs. 16,500/- as funeral expenses.

In view of the discussion made hereinabove, the amount of compensation awarded to the claimants/present appellants shall be in the following manner:

Sr.No.	Heads of compensation	Amount
1.	Income	Rs.4141/-
2.	Deduction 1/3 rd	Rs.2761/-
3.	Annual Income (Rs. 2761/- X 12)	Rs. 33132/-
4.	After applying multiplier (17)	Rs. 5,63, 244/-
5.	Future prospect 40% (Rs. 5,63,244 + Rs. 5,63,244 X 40 %)	Rs.7,88,541/-
6.	Loss of estate	Rs. 16,500/-
7.	Funeral expenses	Rs. 16,500/-
8.	Consortium (Rs. 44,000/- X 3)	Rs. 1, 32,000/-
	Total Compensation	Rs. 9,53,541/-
	Amounted by the Tribunal	Rs.5,20,000/-
	Enhanced amount	Rs.4,33,541/-

In view of the above, the present appeal is partly allowed and rest of the terms of the Award as regards interest etc., shall be remain the same.

Pending miscellaneous application(s), if any, shall also stand disposed of.

22.09.2022
anil

(HARKESH MANUJA)
JUDGE

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