

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

**FAO No.4101 of 2001
Date of Decision : 25.07.2022**

Usha Rani and another

.....Appellants

vs.

Union of India and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Gopal Mittal, Advocate
for the appellants.

Mr. Sumeet Jain, Addl. Standing Counsel, U.T., Chandigarh
for respondent No.2.

PANKAJ JAIN, J.

Claimants are in appeal seeking modification of the Award dated 4th of September, 2000 passed by the Motor Accident Claims Tribunal, Chandigarh.

2. Claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of Rohit Gupta son of the claimants in a motor-vehicular accident dated 28th January, 1998.

3. As per the claim petition, deceased Rohit Gupta was on scooter when bus bearing No.CH-01-G-5314 owned by respondents No.1 and 2, driven by respondent No.3 in a rash and negligent manner struck him from behind. Resultantly 21 years old Rohit Gupta died untimely death.

4. On the basis of the pleadings of the parties, following issues

were framed by the Tribunal :-

- (1) *Whether Sh. Rohit Gupta died in a motor vehicular accident, caused by the rash and negligent driving of Bus No.CH-01-G-5314 by Shital Singh respondent no.3, as alleged? OPP.*
- (2) *Whether the claimants are legal representatives of the deceased, as alleged? OPP.*
- (3) *Whether the claimants are entitled to claim compensation from the respondents, if so how much, and from which of them? OPP.*
- (4) *Whether the claim petition is maintainable? OPP.*
- (5) *Whether the deceased himself was the guilty of contributory negligence, as alleged? OPR.*
- (6) *Relief.”*

5. Tribunal held that the accident in which deceased-Rohit Gupta lost his life is proved to be a result of rash and negligent driving by respondent No.3. The scope of the present appeal is confined to compensation i.e. Issue No.3.

6. Ld. Counsel for the claimants/appellants urges that the Tribunal erred in ignoring that the deceased was earning Rs.35,00/- DHS per month equivalent to Rs.40,000/-INR per month and was employed with a concern in Dubai. He would submit that the document to the said effect was placed on record as Mark ‘A’. However, despite there being documentary evidence on record, the Tribunal has proceeded on to award a lump sum amount of Rs.1,50,000/- without recording any reasoning. He thus asserts that Tribunal ought to have calculated compensation by applying multiplier

method.

7. Per contra, Ld. Counsel for respondent/UT submits that the alleged document Mark 'A' was never proved before the Tribunal. He draws attention of the Court to the document Mark 'A' which is dated 15th of January, 1998 i.e. just thirteen days prior to the date of accident and submits that document w.r.t. the earnings of the deceased is not only bereft of cogent proof but is rather stage-managed. He further asserts that there is material contradiction between the statements of PW-1 and PW-2 w.r.t. educational qualification of the deceased.

8. I have heard Ld. Counsel for the parties and with their able assistance have perused the record of the case.

9. In the considered opinion of this Court, document Mark 'A' cannot be held to be proved in the absence of formal proof thereof. The same has not been corroborated by any evidence in form of copy of passport or visa of the deceased.

10. Be that as it may, the deceased is entitled of his income to be assessed as per the minimum wages notified for the relevant period of time. For the year 1998 minimum wages of the skilled worker were notified to be Rs.2300/- per month. The deceased was 21 years of age at the time of accident thus, 40% future prospects need to be added. Deduction of 1/2 is to be applied. Keeping in the age of the deceased, multiplier of 18 will be applicable. As per law laid down by the Supreme Court in 'National

Insurance Company Limited vs. Pranay Sethi and others', (2017) 16

SCC 680. appellant No.1 will be entitled for Rs.44,000/- on account of loss of consortium; Rs.15000/- for Loss of Estate and Rs.15,000/- for funeral expenses.

11. As a sequel of the aforesaid discussion, the present appeal is allowed. The award passed by the Tribunal stands modified to the extent as stated herein above. Appellant No.1 is held entitled to the compensation as per the modified award along with the interest to be calculated @ 7.5% per annum from the date of filing of the claim petition till its realization.

12. Needless to say that any amount already paid to the claimants/appellants shall be set off.

13. Ordered accordingly.

July 25, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No