

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**FAO No.2024 of 2022 (O&M)
Date of Decision : 24.08.2022**

Parminder Singh

....Appellant

VERSUS

Saraswati Devi & Ors.

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Sukhpreet Kaur, Advocate for the appellant.

ALKA SARIN, J. (Oral)

The present appeal has been filed challenging the award dated 13.10.2021 passed by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as the 'Tribunal').

The brief facts relevant to the present *lis* are that on 12.02.2019 at about 6.35 pm the deceased was standing at the Bus Stand of village Gardla on the *katcha* portion of the main road leading from Nangal to Rupnagar. In the meantime, a car bearing registration no.PB-01-A-9320 came from Kiratpur Sahib side being driven in a rash and negligent manner and at a high speed and struck against the deceased Amar Nath. The deceased received multiple serious injuries and fell on the road. He was taken to Civil Hospital, Bharatgarh where he was declared dead. FIR was lodged by Kamlesh Kumar, who is the son of the deceased and was present at the spot. The claimants filed the claim petition claiming themselves to being dependent upon the deceased.

The driver of the offending vehicle (appellant herein) filed a written statement raising preliminary objections *qua* the maintainability of the petition and stated that he was not the driver of the alleged vehicle.

The owner of the offending vehicle (respondent no.4 herein) filed a separate written statement stating therein that he had sold the car in question to Gurpreet Kaur, wife of the appellant herein, through an affidavit dated 04.01.2017 and since then Gurpreet Kaur, wife of the appellant, is the owner of the car in question.

On the basis of pleadings of the parties, the following issues were framed :

1. Whether Amar Nath died in the Motor Vehicular Accident which took place at about 6.35 PM on 12.02.2019 in the area of village Gardlay on Ropar-Nangal Road on account of rash and negligent driving of Car bearing No.PB-01-A-9320 by respondent no.1 Parminder Singh as alleged ? OPP
2. If issue No.1 is proved, whether the petitioners are entitled for compensation, if so, to what extent ?
OPP
3. Whether the claim petition is not maintainable in the present form ? OPR
4. Whether the claimants have not come to this Court with clean hands ? OPR
5. Relief.

On issue no.1, relying on the testimony of Kamlesh Kumar, who stepped into the witness-box as PW-2, as well as the testimony of Saraswati Devi, widow of the deceased, who stepped into the witness-box as PW-1 and PW-3 Jagtar Singh, Chief Office Superintendent, Northern

Railway, Rupnagar, who proved the employment of the deceased as Gateman and proved his salary, it was held that the offending vehicle was being driven by the appellant herein in a rash and negligent manner at the time of death of the deceased. *Qua* issue no.2, the following compensation was awarded :

Sr. No.	Heads of Claim	Amount
1	Income	Rs.37220 per month
2	Total income after addition at the rate of 15% on account of future prospects	[37220 + 5583] = Rs.42803
3	Deduction on account of personal expenses, 1/3 rd	[42803 - 14267] = Rs.28536
4	Multiplicand	[28536 x 12] = Rs.3,42,432
5	Total dependency after applying of multiplier of 9 (aged of the deceased was 58 years at the time of accident/death)	[342432 x 9] = Rs.30,81,888
6	Loss of Estate	Rs.15000
7	Funeral Expenses	Rs.15000
8	Loss of parental consortium/love & affection	Rs.40000
	Total Compensation	Rs.31,51,888/-

Aggrieved by the said award, the driver of the offending vehicle (appellant herein) has approached this Court.

Learned counsel for the appellant has contended that Kamlesh Kumar, who is stated to be the eye-witness of the accident, was actually never present at the spot. It is further the argument that the accident did not take place in the manner as depicted in the claim petition. Learned counsel for the appellant has further contended that the story set-forth by Kamlesh Kumar was unbelievable that he had come to the place where his father was

present after travelling from Village Gole Mathwani, District Bilaspur, Himachal Pradesh, which is at a distance of 200 kms. only to help his father to purchase a Cell Phone. The quantum awarded has not been challenged by the counsel for the appellant.

I have heard learned counsel for the appellant.

In the present case the undisputed fact is that the appellant herein is facing a criminal trial on the basis of FIR (Ex.P2) registered against him. The argument raised by learned counsel for the appellant that the story set-forth by Kamlesh Kumar that he had travelled a distance of 200 kms. to be with his father is improbable and that he was not an eye-witness to the said accident deserves to be rejected on the ground that not a single suggestion was put to the said witness in his cross-examination that he was not an eye-witness of the accident. In fact the statement of Kamlesh Kumar, who stepped into the witness-box as PW-3, remained unshaken in the lengthy cross-examination that he was subjected to.

In view of the above, I do not find any illegality or infirmity in the award passed by the Tribunal. The present appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

24.08.2022
jk

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO