

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHFAO-4863 of 2009
Decided on: April 18, 2022

Munesh Devi and others

.....Appellants

Vs.

Kirpal Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Sandeep Kotla, Advocate
for the appellants.Ms. Shamsher Kaur, Advocate
for respondent No.3-Insurance Company.

Pankaj Jain, J (Oral)

Claimants are in appeal seeking modification of the award dated 10.06.2009 passed by the MACT., Gurgaon against MACT Case No. 76/07.

The present *lis* has borne out of a vehicular accident dated 3.5.2007 wherein one Kushal Kumar Sharma lost his life while travelling in Indica Car bearing No. HR-26-M-6009. As per the pleadings the vehicle was being driven by respondent No.1 at a very high speed rashly and negligently. When at about 4/5 a.m., the offending vehicle i.e. Indica Car reached at Phase-V, Udyog Vihar, Fly Over, Gurgaon, the car could not be controlled due to high speed. It struck in standing crane resulting in death of Kushal Kumar Sharma. Claimants preferred a claim petition under Section

166 of the Motor Vehicles Act 1988 (hereinafter referred to as 'The Act'). MACT awarded a sum of Rs.5,50,000/- as compensation to the appellants-claimants (to be distributed in equal shares) along with interest @ 7.5% per annum to be calculated for the period from the date of institution of the petition till its actual realization. The share of appellant No.2 i.e. Master Dev Kumar (minor) was ordered to be deposited in FDR in a nationalized bank till he attains the age of majority. It was further directed that the Insurance Company-respondent No.3 shall satisfy the award and shall have recovery rights against the insured i.e. Respondent No.2.

Learned counsel for the appellants has drawn attention of this Court to the finding recorded by MACT., Gurgaon on issue No. 2. He claims that income of the deceased was fully proved on record by proving the salary slip through certified copy issued by employer of the deceased. MACT wrongly recorded that there was no consistency in the documents produced by the petitioner and has assessed the income of the deceased @ Rs.4500/- per month instead of Rs.8,000/- per month proved on record. He claims that pegging down of the income of the deceased from Rs.8,000/- per month to Rs.4,500/- is without any basis and is conjectural. Thus the same deserves to be reversed.

Learned counsel for respondent No.3 has argued that since the original record was not produced by the employer, thus the MACT, Gurgaon has rightly discarded the salary slip wherein the deceased has been shown to be earning Rs.8,000/- per month and has rightly taken the income of the deceased to be Rs.4,500/- per month. Respondent No.3 is not in appeal nor any cross objection has been filed.

I have heard learned counsel for the parties and have gone

though the record of the case.

It has gone un-rebutted that the claimants have examined PW-5 Sachin Awasthi, Executive (HR) from the Company wherein the deceased was working. He has proved on record appointment letter Ex.P-15, Copy of the attendance sheet Ex. P-16, Copy of the salary slip Ex.P-17 and in the light of the aforesaid record has stated that the salary of the deceased was Rs.8,000/- per month.

In view of the overwhelming evidence on record, MACT, Gurgaon erred in recording that there was no consistency in the documents produced by the petitioner. Rather all the documents produced on record go on to show that the deceased was earning around Rs. 8,000/- per month, thus, the finding recorded by the MACT., Gurgaon cannot be sustained and is thus set aside.

In view of the evidence on record the income of the appellant is taken to be Rs.8,000/- per month as proved by PW-5. In view of the law laid down in National Insurance Company Ltd. Vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009, the component of 40% future prospects further needs to be added keeping in view the age of the deceased. Multiplier of 15 has been rightly awarded. The claimants are further held entitled to the following:-

Sr.N	Head	Compensation
1	Loss of estate	Rs.15,000/-
2	Loss of consortium	Rs.40,000/-
3	Funeral expenses	Rs.15,000/-
4	Compensation on account of transport expenses.	Rs.5,000/-

In view of the aforesaid discussion, the award passed by the

MACT., Gurgaon stands modified to the extent as stated hereinabove.

The total compensation shall be calculated accordingly.

The appeal is allowed.

(PANKAJ JAIN)
JUDGE

April 18, 2022
archana

Whether speaking/reasoned	Yes
Whether reportable	No