

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 4527/2018(O&M)

Date of decision:17/11/2022

Sandeep Kumar and others

.....Appellants

Vs.

Satish Kumar and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Ajay Kumar,Advocate for the appellants/claimants.

Mr.Rajneesh Malhotra,Advocate for the respondent-
Insurance Company

Nidhi Gupta,J.

This appeal has been filed by the claimants/appellants being sons of deceased Rajni @ Rajal assailing the Award dated 20.3.2018 passed by Motor Accident Claims Tribunal, Sonipat in MACT case no.303 of 2017 filed under Section 166 of the Motor Vehicles Act.

Brief facts of the case are that on 16.5.2017 Rajni @ Rajal deceased was going to bring drinking water at about 5.30 a.m., in the area of Village Rohna, District Sonipat. She was walking on the unbuilt portion of the road by observing the traffic rules when she was hit from behind by offending truck No. HR-69-A-4847 driven by respondent no.1 at a very high speed, rashly and negligently in a zig-zag manner. Due to the said impact Rajni fell down and sustained grievous injuries on her person. She was taken

to CHC Kharkhoda where she was given first aid and thereafter referred to PGIMS Rohtak where she died during treatment on the same day. Even FIR No.240 dated 16.5.2017 was lodged in this regard at PS Kharkhoda. The claimants, who are sons of the deceased preferred abovesaid claim petition under Section 166 of the Motor Vehicles Act. Deceased Rajni was stated to be about 50 years of age and of sound physique and claimants are stated to be fully dependent upon her for their livelihood and maintenance. It was further pleaded that deceased was working as an agriculturist and dairy labourer with one Dharamvir son of Om Parkash resident of Village Rohna District Sonipat. Besides that job she also used to manage her house hold works and thus earned Rs.22000/- per month from labour work and house hold works. It was further pleaded that father of the claimants had already died in the year 2009 and therefore, compensation of Rs.50 lacs alongwith interest was claimed.

Learned Tribunal on considering the evidence on record concluded that the deceased Rajni had died due to rash and negligent driving of the offending truck by respondent no.1. The Tribunal while assessing the compensation took the income of the deceased as Rs.6000/- per month being labourer and assessed total compensation at Rs.8,10,000/- alongwith interest @ 7.5% per annum.

Learned counsel for the Insurance Company is unable to dispute these facts though he objected to the prayer for enhancement of compensation made in this appeal.

I have heard learned counsel for the parties.

There is no dispute regarding death of deceased Rajni due to rash and negligent driving of offending Truck No. HR-69-A-4847 on

16.5.2017 Notification No.IR-2/7083-7193 dated 2.3.2017 has been

produced before this Court in support of the claim made in the appeal showing that income of unskilled labourer at the relevant time was Rs.8280/- per month, and claimants are also entitled to parental consortium in view of the law laid down by Hon’ble Supreme Court in **Smt.Sarla Verma and others v Delhi Transport Corporation and another (2009) 6 SCC 121.**

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

Income as per minimum wages Rs.8280/-
Future prospects- 25%
Monthly income- Rs.8280+ 25%
After deduction total monthly income = 1/3 (3 claimants) Rs.6900/-
Multiplier= 13 (age 50)
Total income 6900x12x12 – 10,76,400/-
Funeral expenses- Rs.15,000/-
Loss of Estate- Rs.15,000/-
Parental consortium- Rs.44000 x 3 = Rs.1,32,000/-
Total compensation Rs.12,38,400/-
Awarded by ld. MACT Rs.8,10,000/-

The claimants will also be entitled to interest @ 7.5% per annum from the date of filing of the petition till realization. Needless to say that amount already awarded by the Tribunal shall be deductible from the reworked compensation above.

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

17.11.2022. Joshi	(Nidhi Gupta) Judge
Whether speaking/reasoned Whether reportable	Yes Yes/No