

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 1434/2020

Date of decision:23/02/2023

Sh.Deva and others

.....Appellants

Vs

Jawahar Lal and another

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ashok K. Sharma Bhana, Advocate for the appellants.

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.9,36,050/- granted vide Award dated 4.10.2019 by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') passed in MACT Case No. 225/2018 filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act').

Ld. Tribunal on appraisal of pleadings and evidence before it concluded that deceased Ms. Bala had died due to injuries suffered by her in a motor vehicular accident that took place on 18.10.2018 due to rash and negligent driving of Tata Zest XE QJET car bearing registration No. HR-

39S-6386 (hereinafter referred to as 'the offending vehicle'), owned and driven by respondent no.1 and insured by respondent no.2 herein. Claimants/appellants herein are the husband, and two major sons of the deceased-Ms. Bala.

The only ground on which enhancement is being sought by the Id. Counsel for the appellants is that the Id. Tribunal has granted consortium only to appellant no.1 who is husband of the deceased and nothing has been granted by way of consortium to appellants no. 2 and 3 being major sons of the deceased. It is further submitted that compensation granted under the conventional heads is also on the lower side.

No other argument has been raised on behalf of the appellants.

Heard Id. Counsel for the appellants.

Perusal of paras 45 and 46 of the impugned Award reveal that out of the compensation amount of Rs. 9,36,050/-, only Rs. 40,000/- has been given to appellant/ claimant no. 1/ husband of the deceased as consortium. The remaining claimants being appellants 2 and 3 herein, though are major sons of the deceased, have been "*held entitled to the remaining amount of compensation, in equal share*".

Further, as per law laid down by this Court in **Harpal Kaur and others v Sita Ram and others, Law Finder Doc Id # 921104; Narender Nayyar v Sheodan Singh and others, Law Finder Doc Id # 626136; and Sajna Devi and others v Vijender Kumar and others, Law Finder Doc Id # 921100**, major sons are not entitled to consortium.

Further, perusal of the Award shows that Rs.15000/- has been granted towards funeral expenses, and Rs.15000/- towards loss of estate. Accordingly, I find no error in the impugned Award, and that the compensation granted by the Id. Tribunal is in accordance with the law laid down by the Hon’ble Supreme Court in **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram, 2018 (18) SCC 130; Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104; and National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680.**

No doubt Chapter-12 of the Motor Vehicles Act, 1988 is a beneficial legislation yet, as cautioned by the Hon’ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. All that has to be determined in the facts of a given case is, that the compensation accorded is “just”. In my considered view, in the present case, the learned Tribunal has awarded a very “just” compensation, which is in accordance with the law laid down by the Hon’ble Supreme Court and therefore does not warrant the interference of this Court. In case of **KSRTC Versus Susamma Thomas 1994 Volume-II SCC 176**, the Hon’ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

Dismissed.

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

23/02/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No