

2023:PHHC:078180

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

FAO 890/2019(O&M)

Date of decision: 25.05.2023.

Mrs. Rekha Devi and another

.....Appellants

Vs.

Sarabjit Singh and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Shakti Mehta, Advocate for the appellant.

Mr. Puneet Jain, Advocate for respondent no.3.

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.14,39,184/- granted by the Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal') vide Award dated 21.11.2018 passed in MACP 402/2016 u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'). Claimants are parents of the deceased Ajay @ Sobha Singh, who was 22 years at the time of death.

2. Ld. Tribunal on the appraisal of facts, pleadings and evidence on record held that the deceased had died due to injuries suffered by him in motor vehicular accident that took place on 27.12.2015 due to rash and negligent driving of Tipper bearing registration No. PB-11 AX-8529 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3. The Tribunal awarded compensation as above along with interest @ 6% per annum from the date of filing of the claim petition till realization. Ld. Tribunal had granted recovery rights to respondent no.3-Insurance Company against respondents 1 and 2

herein, who were proceeded ex parte before the Tribunal and despite service, have not put in appearance before this Court either.

3. Ld. counsel for the appellants seeks enhancement of compensation only on the grounds that nothing has been granted by way of parental consortium; and that interest @ 6% per annum as granted by the Tribunal is on the lower side and deserves to be enhanced.

4. Perusal of the impugned Award reveals that age of the deceased was determined to be 22 years at time of death on the basis of Postmortem Report Ex.P5. Though it was claim of the appellants that the deceased was doing Computer typing work at Rajpura Courts and used to maintain accounts of Poultry Farm on Sundays and was earning Rs.12,000/- per month from both the occupations, however, no proof of the said avocations or income was produced by the appellants. Accordingly, in my opinion, ld. Tribunal has correctly assessed the income of the deceased as Rs.9320/- on the basis of relevant Minimum Wage Notification. As the deceased was a bachelor at the time of his death, ld. Tribunal correctly made deduction of 50% towards personal expenditure thus, taking monthly dependency to be Rs.4660/- per month. As deceased was 22 years old at the time of death, Ld. Tribunal in accordance with **National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680** correctly made addition of 40% towards future prospects taking monthly dependency to Rs.6524/-. Further, ld. Tribunal in accordance with **Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104**; correctly applied multiplier of 18 thus, calculating the total compensation to be Rs.14,39,184/- i.e. Rs.6524x12x18 plus Rs.30,000/- granted by ld. Tribunal under the conventional heads. Ld. Tribunal also held that the claimant no.2/father of the deceased was

aged 40 years at the time of death of the deceased, and could therefore, not be taken as dependent upon the deceased.

5. In my very considered view, the above compensation as awarded by the learned Tribunal is just and fair and in accordance with law. As regards contention on behalf of the appellants that nothing has been granted by way of parental consortium, the said submission is liable to be rejected as the Hon'ble Supreme Court in case of **'New India Assurance Company Ltd. Vs. Vinish Jain and others, Law Finder Doc ID#977386'**, has held that where the difference in compensation is about 4% to 5% only, the Award need not be interfered with. In the instant appeal, at best, maximum of Rs.40,000/- can be added by way of consortium. Accordingly, no interference in the impugned Award is called for as the said difference in compensation is within the permissible limits of 4% to 5%. Further even as per Section 173(2) of the Act, it is stipulated that no appeal shall lie against any Award of the Claims Tribunal if the amount in dispute is less than Rs. 1 lac. Even interest, at the rate of 6% p.a. as granted by the learned Tribunal is adequate and fair. Reference may be made to **Abati Bezbaruah v Dy. Director General, Geological Survey of India and another, Law Finder Doc Id # 117404** wherein the Supreme Court has held that the award of interest is solely on the discretion of the Tribunal or the High Court.

6. Accordingly, in view of the discussion above, I find no case is made out that merits interference with the impugned Award. I find the compensation awarded to the appellants to be just and fair in the facts and circumstances of the case. No doubt Chapter-12 of the Act 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. Moreover, compensation awarded

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upon the death of a near and dear loved one cannot be made a market negotiation, where every penny has to be calculated and drawn. Hon’ble Supreme Court in **State of Haryana Vs. Jasbir Kaur, (1999) 1 SCC 90 and Divisional Controller K.S.R.T.C. Vs. Mahadev Shetty, (2003) 7 SCC 197,** has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. Thus, 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 Vs. 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.

- 7. Dismissed.
- 8. Application(s), if any, stand disposed of.

25.05.2023.	(Nidhi Gupta)
Joshi	Judge
Whether speaking/reasoned	Yes
Whether reportable	Yes/No