

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
240 **FAO-1736-2020 (O&M)**
Date of decision: 04.05.2023

Ranjeet Kaur & Others

...Appellant(s)

Vs.

Gurjant Singh @ Ladi & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Amarjit Beniwal, Advocate
for Ms. Sunita Nain, Advocate
for the appellants.

NIDHI GUPTA, J.

CM-5211-CII-2020

This is an application under Section 5 of the Limitation
Act seeking condonation of delay of 10 days in filing the appeal.

After going through the contents of the application, the
same is allowed subject to all just exceptions.

MAIN CASE

Present appeal has been filed by the claimants seeking
enhancement of compensation of Rs.15,96,920/- granted by Motor
Accident Claims Tribunal, Jind (hereinafter referred to as "the learned
Tribunal") vide Award dated 16.10.2019 passed in Petition No.136 (RBT)
CIS No.170/2018 filed under Section 166 of the Motor Vehicles Act, 1988
(hereinafter referred to as "the Act"). Five claimants are the widow and
four minor children of the deceased-Mangal Singh @ Polla.

2. Brief facts of the case are that the learned Tribunal on
the basis of pleadings and evidence adduced before it concluded that

deceased-Mangal Singh @ Polla had died due to injuries suffered by him in a motor vehicular accident that took place on 27.02.2018 due to rash and negligent driving of Bolero pick-up bearing registration No.PB-13AR-8523 (hereinafter referred to as 'the offending vehicle'), being driven by respondent No.1, owned by respondent No.2, and insured by respondent No.3. Learned Tribunal awarded compensation as above along with interest @ 10% per annum from the date of filing the claim petition till realisation. Respondents were held jointly and severally liable to pay the amount of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation on the sole ground that income of the deceased has been taken as only Rs.8,100/- per month. It is submitted that even as per relevant notification, income of the deceased ought to have been taken as Rs.9,024/- per month. In support of his contention, learned counsel relies upon Minimum Wage Notification No.IR-2/2019/28489-590 dated 12.09.2019.

4. No other argument is raised on behalf of the appellants.

5. I have heard learned counsel for the appellants.

6. Perusal of record of the case shows that it was the pleaded case of the appellants before the learned Tribunal that the deceased was a labourer and used to earn Rs.15,000/- per month. Perusal of Grounds of Appeal filed before this Court reveals that the appellants have stated therein that the deceased was doing agriculture

and dairy farming work and earning Rs.25,000/- per month. At the time of argument, it has been stated by learned counsel that as per relevant Minimum Wage notification, income of the deceased ought to be taken as Rs.9,024/- per month. Perusal of notification relied upon by learned counsel for the appellants shows that the same pertains to the year 2019 whereas the accident in present case is of 27.02.2018 and therefore, the same will not be applicable to the present case. Learned Tribunal had held that no evidence was led by the appellants to prove alleged income of the deceased as Rs.15,000/- per month and had accordingly taken income of the deceased as Rs.8,100/- per month on the basis of relevant Minimum Wage notification. Nothing has been produced before this Court to show as to why the said notional income as assessed by the learned Tribunal is incorrect. Accordingly, notional income of the deceased shall be maintained as Rs.8,100/- per month.

7. As the claimants were five in number, learned Tribunal correctly made deduction of $\frac{1}{4}^{\text{th}}$ towards personal expenses and calculated monthly loss of dependency as Rs.6,075/-. Learned Tribunal on the basis of post-mortem report of the deceased (Exhibit P2) took age of the deceased as 40 years and correctly made an addition of 25% towards future prospects, in conformity with the judgment of Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Others (2017) 16 SCC 680**, wherein it has been held that where the deceased was 40 to 50 years of age, addition of 25% has to be made towards future prospects.

8. In conformity with the judgment of Hon'ble Supreme Court in **Sarla Verma Vs. Delhi Transport Corporation (2009) AIR (SC) 3104**, learned Tribunal correctly applied multiplier of 15 and therefore, calculated total dependency as Rs.13,66,920/-. Under conventional heads Learned Tribunal further granted Rs.40,000/- to each of the five claimants towards loss of love & affection; Rs.15,000/- towards loss of estate; and Rs.15,000/- towards funeral expenses, thus, totalling to Rs.15,96,920/- as compensation.

9. 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 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.

10. In view of the above facts, I find no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.

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

04.05.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No