

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 4630/2019 (O&M)

Date of decision: 18/04/2023

Sukhjinder Kaur and others

.....Appellants

Vs.

Deepak Pahuja and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. B.D.Sharma, Advocate for the appellants.

Nidhi Gupta, J.

Claimants/appellants are seeking enhancement of compensation of Rs.25,81,256/- awarded by the Motor Accident Claims Tribunal, Amritsar (hereinafter referred to as 'the Tribunal') vide Award dated 2.11.2018 passed in MACT Case No.10 of 2016. Claimants are widow, two major children, and mother of deceased Daljinder Singh.

Facts in brief are that Id. Tribunal on the basis of pleadings and evidence led by the parties concluded that the deceased Daljinder Singh had died due to injuries suffered by him in a motor vehicular accident that took place on 28.2.2016, due to rash and negligent driving of Car bearing

No. HR 25D1792 (hereinafter referred to as ‘the offending vehicle’), owned by respondent no.1, driven by respondent no.2 and insured by respondent no.3. Ld. Tribunal awarded compensation as above along with interest @ 9% per annum from the date of filing of claim petition till realization. Liability to pay the compensation was joint and several.

Sole ground on which the appellants seek enhancement is that prior to his death, the deceased was owner of 40 kanals of agriculture land. It is submitted that while computing compensation, ld. Tribunal has not taken into account agriculture income of the deceased.

No other argument has been raised.

Heard ld. counsel.

Perusal of the impugned Award shows that ld. Tribunal took income of the deceased as Rs.2,76,722/- per annum on the basis of his Income Tax Return of the deceased for the year 2014-15. As the deceased was 51 years of age, ld. Tribunal made an addition of 10% towards future prospects in conformity with the judgment of Hon’ble Supreme Court in **National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680**. As claimants were four in number, ld. Tribunal correctly made a deduction of 1/4th towards personal expenses. Multiplier of 11 was also correctly applied. Ld. Tribunal further, awarded Rs.15,000/- towards loss of estate, Rs. 40,000/- as loss of consortium, and Rs.15,000/- towards funeral expenses. Thus, total compensation of Rs. 25,81,256/- was awarded by the ld. Tribunal.

I find no error in the above compensation as awarded by the

ld. Tribunal. As regards argument on behalf of the appellants regarding

agricultural income of the deceased, it is well established position in law that income from agriculture, if any, is not included while computing compensation payable to claimants as, upon death of the deceased, claimants are not deprived of the land and therefore, said income from land continues even after death of the deceased. Thus, there is no loss of agricultural or dairy-farming income as said income is still available with the appellants. As such, there is no merit in the sole argument raised by the learned counsel for the appellants.

In my view the learned Tribunal has awarded just and fair compensation in the facts and circumstances of the case and no case for interference is made out. 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. 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 v. Jasbir Kaur, (1999)1 SCC 90* and *Divisional Controller K.S.R.T.C. v. 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. 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, stand disposed of.

18/04/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No