

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-1877-2022 (O&M)
Date of decision: 27.02.2023

Devinder Singh & Another

...Appellant(s)

Vs.

Pratyush Gaur & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Abhishek Dhull, Advocate for the appellants.

NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.9,69,331/- awarded by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as "the learned Tribunal") vide Award dated 02.09.2021 passed in MACT Case No.MACP-371-2017 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). Claimants are major son and wife of deceased-Charan Singh.

2. Learned Tribunal on the basis of pleadings and evidence placed before it concluded that deceased-Charan Singh had died due to injuries suffered by him in a motor vehicular accident that took place on 13.07.2017 due to rash and negligent driving of car bearing registration No.HR-71F-7009 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1/driver, owned by respondent No.2, and insured by respondent No.3. Learned Tribunal awarded compensation as noted above along with interest @ 7.5% per annum from the date of filing the

petition till its actual realization. Respondents were held jointly and severally liable to pay the aforesaid compensation amount.

3. Learned counsel for the appellants seeks enhancement of compensation inter alia on the ground;

a) that nothing has been granted by way of transportation;

b) that nothing has been granted by way of parental consortium. In support, learned counsel relies upon judgment of the Hon’ble Supreme Court in **United India Insurance Co. Ltd. Vs. Satinder Kaur and Others Law Finder Doc Id # 1729112;**

c) that rate of interest of 7.5% per annum is on lower side.

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

5. I have heard learned counsel for the appellants.

6. a) Perusal of impugned Award shows that age of the deceased was taken to be 51-55 years. Learned Tribunal calculated compensation in following manner:-

HEADS	CALCULATION
Income	Rs.9,108/- per month
1/3 rd of income deducted as personal expenses of the deceased	Rs.9,108/- - Rs.3,036/- = Rs.6,072/- per month
Compensation after multiplier of 11 is applied	Rs.6,072/- x 12 x 11 = Rs.8,01,504/-
Loss of consortium	Rs.40,000/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Medical expenses	Rs.97,827/-
Total compensation	Rs.9,69,331/-

b) Learned Tribunal took notional income of the deceased as Rs.8,280/- per month on basis of Minimum Wage notification issued by Government of Haryana at the relevant time for unskilled workers, to which addition of 10% was made by way of future prospects;

c) deduction of 1/3rd was made towards personal expenses;

d) multiplier of 11 was also correctly applied; and under conventional heads amount was granted as noted above.

7. In my view, compensation awarded by the learned Tribunal is just and fair in the facts and circumstances of the case.

8. As regards argument of the learned counsel for the claimants regarding payment of parental consortium, same is not tenable in view of judgment of the Hon'ble Supreme Court in **New India Assurance Co. Ltd. Versus Vinish Jain and Ors., Law Finder Doc Id # 977386**, wherein it has been categorically held that major children are not dependents on the deceased and are therefore, not entitled to compensation. In the present case admittedly, claimant/appellant No.1 is major son of the deceased. Even no evidence, whatsoever has been led on behalf of the claimants to prove that the major son was dependent on the deceased. Even this Court in **Harpal Kaur and Others Vs. Sita Ram and others, Law Finder Doc Id # 921104; Narender Nayyar Vs. Sheodan Singh and Others, Law Finder Doc Id # 626136; and Sajna Devi and Others Vs. Vijender Kumar and Others, Law Finder Doc Id # 921100**, has held that major

children are not entitled to consortium. Appellants can derive no benefit from relied upon judgment in case of **Satinder Kaur (supra)**, as claimant children in the said case were minor.

9. 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. 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.

10. I find no merit in the present appeal and the same is hereby, dismissed.

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

27.02.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No