

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-196-1992 (O&M)

Date of decision : 09.11.2023

Vinod Kumar and others

.....Appellants

Versus

Purnima Khanna and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Shrenik Jain, Advocate, for the appellants.

None for the respondents.

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the Award dated 01.10.1991 passed by the learned Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal') vide which a sum of Rs.4,66,000/-alongwith interest @ 12% per annum, had been awarded to the claimant-respondents and the appellants are held liable to pay the said amount.
2. This is a reconstructed case, as the original file was burnt in the fire that broke out in the concerned branch in the year 2011. Since the case is pending for the last more than 31 years, the counsel for the appellants has no objection, in case the same is decided on basis of the available record.
3. Learned counsel contends that the vehicle in question was falsely involved only to extract the money. Even as per the opinion of PW-1 Dr. Parveen Kumar Sikka, Medical Officer the injuries could have been caused by slipping and falling on a hard surface, which shows that the accident with the vehicle of the deceased never took place as alleged. Furthermore, the claimant-respondents could not be considered as dependents of the deceased as they themselves were qualified and earning members of the family and thus also, not entitled for grant of any

compensation. The Tribunal has also wrongly assessed the compensation by applying the multiplier of 14 instead of 10, the deceased being 49 years and Rs.18,000/- towards medical expenses.

4. None has appeared on behalf of the respondents.
5. Heard and perused.
6. The ill-fated accident is stated to have taken place on 10.01.1990, when the deceased, Sudarshan Khanna was going on his new scooter and was struck by appellant No.1, who was driving his Maruti car in a rash and negligent manner. The deceased succumbed to serious injuries received by him and died at the hospital. In this regard, it is essential to refer to the following findings of the learned Tribunal, which read thus:

“As noted above, Shri Vinod Kumar RW-4, Ranbir Kumar RW-5 have asserted that Sudarshan Khanna had struck against the central pole of the fly over bridge and sustained injuries while RS-4 only took him to the hospital. But the claimants are educated, gentle and cultured people. It is highly improbably that they would have falsely implicated the respondent no.1, if he had been their benefactor and had not been the real perpetrator of the accident. Therefore, keeping in view the totality of the material on record, the version of the RW-4 and RW5 must be rejected as having no nexus with reality, and believing the evidence produced by the claimants, to be mainly truthful, this issue is decided for the claimants and against the respondent.”

7. The argument that compensation ought not to have been granted to the claimants, they being not dependent on the deceased does not hold much water in view of the law laid down in **National Insurance Company Limited vs. Birender & Ors**, (2020) 11 SCC 356, wherein Hon'ble the Supreme Court had observed that, “It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be

the bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependant on the deceased and not to limit the claim towards conventional heads only. The evidence on record in the present case would suggest that the claimants were working as agricultural labourers on contract basis and were earning meagre income between Rs.1,00,000/ and Rs.1,50,000/ per annum. In that sense, they were largely dependant on the earning of their mother and in fact, were staying with her, who met with an accident at the young age of 48 years.” In the present case, the claimants are the legal representatives of the deceased, being his widow, son and mother, who for the purpose of filing and maintaining a claim under the MV Act are not necessarily to be dependent upon him, thus there is no error in awarding compensation to them by the Tribunal.

8. The reporting to the police belatedly by the claimants regarding the accident also cannot *ipso facto* be a ground to conclude that a false claim had been foisted, as it was categorically stated that at the relevant time, the claimant-respondents were more concerned about the health and recovery of the deceased, so long as he was alive, instead of chasing the appellants. Even otherwise, the delay in lodging the FIR is not fatal to a claim petition filed under the Motor Vehicle Act, as has been held by Hon’ble the Supreme Court in **Ravi vs. Badrinarayan**, (2011) 4 SCC 693.

9. The Motor Vehicle Act is a beneficial legislation and therefore, it would not be in the interest of justice to reduce the compensation awarded way back in the year 1991 by the Tribunal, a period of 32 years having elapsed. As a matter of fact, the compensation is bound to increase if calculated as per the law laid down in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009(3) RCR (Civil) 77, reiterated in **National Insurance Company**

Limited vs. Pranay Sethi and others 2017(4) RCR (Civil) 1009 and **Janabai vs. ICICI Lambord Insurance Co. Ltd.**, (2022) 10 SCC 512. However, this Court is leaving the matter as it is, no record being available as to whether any appeal for enhancement had been filed.

10. Resultantly, the present appeal being meritless, is hereby dismissed.

09.11.2023
gsv/Ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No