

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 1856/2020

Date of decision:23/02/2023

Daljit Kaur and others

.....Appellants

Vs.

Gaurav Sharma and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Arun Takhi, Advocate for the appellants.

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.22,77,250/- granted vide Award dated 1.11.2019 passed by the Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as 'the Tribunal') in MACP RBT No.53 of 25.4.2018 filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act').

Learned Tribunal on the basis of pleadings and evidence led before it held that deceased Satnam Singh had died due to injuries suffered by him in a motor vehicular accident that took place 1.3.2018 due to rash and negligent driving of Maruti Swift Car bearing registration NO. HP-21-B-8899, (hereinafter referred to as 'the offending vehicle') driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3

herein. Claimants are widow, two children aged 18 years and 16 years, and father of the deceased. The respondents were held liable to pay the compensation jointly and severally.

The only ground on which counsel for the appellants assails the Award is that the interest has been awarded @ 7.5% per annum from the date of filing of the claim petition till realization of the entire amount, whereas appellants are seeking interest @ 9% per annum.

In my view, interest @ 7.5% per annum as awarded by the learned Tribunal is just and fair in the facts and circumstances of the case, and no case for interference is made out. Even no reason has been given by Id. Counsel as to why said rate of interest is unfair, or deserves to be enhanced. 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. 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.

23/02/2023
Joshi

(Nidhi Gupta)
Judge