IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

249 **FAO-2212-2019 (O&M)**
Date of decision: 20.02.2023

Rekha Devi **...Appellant(s)**

Vs.

Sohan Lal & Others **...Respondent(s)**

CORAM: **HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Parminder Singh, Advocate for the appellant.

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NIDHI GUPTA, J.

Present appeal has been filed by the claimant seeking enhancement of compensation of Rs.13,05,240/- awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as "the learned Tribunal") vide Award dated 20.11.2018 passed in MACT Case No.5 of 2017 filed under Sections 166 and 140 of the Motor Vehicles Act (hereinafter referred to as "the Act"). Claimant is the mother of deceased-Jaswinder.

2. Learned Tribunal on the basis of pleadings and evidence placed before it concluded that deceased-Jaswinder had died due to injuries suffered by him in a motor vehicular accident that took place on 19.09.2016 due to the rash and negligent driving of tractor trolley bearing registration No.HR-48B-8189 (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 @ 6% per annum from

the date of filing the claim petition till its actual realization. Respondents were held jointly and severally liable to pay the compensation.

3. It is submitted by learned counsel for the appellant;

a) that deceased was 26 years of age at the time of accident and was a skilled worker who was working in Amar Soap factory for the last four years and earning Rs.20,000/- per month. However, income of the deceased has been taken as only Rs.8,300/- per month which is on lower side;

b) that addition of 40% towards future prospects as granted by the learned Tribunal, is on lower side;

c) that appellant had spent Rs.50,000/- towards transportation of dead body, funeral ceremonies and last rites;

d) that multiplier of 18 should have been applied whereas learned Tribunal has wrongly applied the same of 17;

e) that deduction of 50% towards personal expenses is on higher side whereas it should be $1/3^{rd}$.

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

5. I have heard learned counsel for the appellant.

6. Perusal of record of the case shows that learned Tribunal has calculated compensation in the following manner:-

Sr.No.	Heads	Calculations
(i)	Total monthly income assessed is	Rs.8300/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.8300+3320=Rs.11620/- per month.

(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.5810/-. The amount remains Rs.11620 (-) Rs.5810 - =Rs.5810/- per month.
(iv)	The assessment of per annum comes to	Rs.5810X12= Rs.69,720/- per annum
(v)	Compensation after applying multiplier of 17 comes to	Rs.69720X17= Rs.11,85,240/-
(vi)	Loss of funeral and transportation etc.	Rs.15,000/-
(vii)	Loss of Estate	Rs.15,000/-
(viii)	Loss of Filial Consortium	Rs.40,000/-
(ix)	Loss of love and affection	Rs.50,000/-
	Total	**Rs.13,05,240/- (Rupees thirteen lacs five thousand two hundred forty only)**

7. a) Though it has been very emphatically submitted on behalf of learned counsel for the appellant, and even the appellant had stated in her cross examination, that deceased was working in Amar Soap factory for the last four years before his death, however, perusal of the record of the case shows that she produced no documentary proof in support of her contention regarding either the employment or even income of the deceased. Even now, nothing has been placed on record in support of the said contention. As such, I find no error in the assessment made by the learned Tribunal in taking income of the deceased as Rs.8,300/- per month as admissible to a labourer, on basis of the Minimum Wage Notification at the relevant time;

b) Further, deceased was admittedly unmarried at the time of accident. Therefore, deduction of 50% towards personal expenses is also correct;

c) As per postmortem report (Exhibit P3) deceased was 26 years of age at the time of death. Admittedly, too, deceased was self-employed. Therefore, addition of 40% towards future prospects, and application of multiplier of 17, is also correct being in consonance with the judgment of Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Others (2017) 16 SCC 680**;

d) Even amounts granted under conventional heads are in accordance with judgments of Hon'ble Supreme Court in **Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram, 2018 (18) SCC 130; Sarla Verma Vs. Delhi Transport Corporation (2009) AIR (SC) 3104;** and **National Insurance Company Limited Vs. Pranay Sethi and Others (2017) 16 SCC 680.**

8. In view of the above, I find the compensation awarded by the learned Tribunal to be just and fair in the facts and circumstances of the case.

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. Present appeal accordingly stands dismissed.

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

20.02.2023 **(Nidhi Gupta)**
Sunena **Judge**

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