

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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FAO-2162-2022 (O&M)
Date of decision: 02.05.2023

Rajpati Devi @ Rajpatti Devi & Others

...Appellant(s)

Vs.

Ranjeet Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Navmohit Singh, Advocate
for the appellants.

NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.12,40,000/- granted by Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as "the learned Tribunal") vide Award dated 06.01.2022 passed in MACT No.RBT 18 of 2020/2019 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). Three claimants are the widow, major daughter, and father, of the deceased-Nand Lal.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that deceased-Nand Lal had died due to injuries suffered by him in a motor vehicular accident that took place on 04.03.2019 due to rash and negligent driving of Brezza car bearing registration No.HR-02AJ-3710 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. Learned Tribunal awarded compensation as above along with

interest @ 7% per annum from the date of filing the claim petition till realisation. Respondents were held jointly and severally liable to pay the amount of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation solely on the ground that income of the deceased has been taken as only Rs.9,000/- per month, whereas as per relevant Minimum Wage notification, income of the deceased ought to have been taken as Rs.9,268/- per month.

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

5. I have heard learned counsel for the appellants.

6. In the present case, though learned counsel for the appellants has relied upon Notification to submit that income ought to be taken as Rs.9268/- per month, however, no such Notification has been produced before this Court. Moreover, even if argument of learned counsel for the appellants were to be accepted and income of the deceased is taken as Rs.9,268/- per month, total difference in compensation comes to only Rs.34,840/-. The Hon'ble Supreme Court in case of '***New India Assurance Company Ltd. Vs. Vinish Jain and others, Law Finder Doc ID#977386***', has held that where the difference in compensation is about 4% to 5%, it does not warrant the interference by this Court as such variation in compensation is within permissible limits.

7. This abovesaid judgment of the Hon'ble Supreme Court has been followed by the Kerala High Court in **The Managing Director,**

Divisional Controller Versus Alikutty and Ors., Law Finder Doc Id #

1885188. Relevant para 18 of the said judgment is reproduced below:-

*“18. It is to be borne in mind, the accident occurred on 23,2,2019. It is more than 2 ½ years since the respondents 1 to 4 have been knocking at the doors of the Courts seeking compensation on account of the death of the bread-winner. It is trite law that the Tribunal is permitted to do some guess work and also exercise its discretion to fix the reasonable and just compensation, for which there cannot be any straightjacket formula based on mathematical precision. In **New India Assurance Company v. Vinish Jain and others [(2018) 3 SCC 619]**, the Hon'ble Supreme Court has held that if the fixation of compensation is within permissible limits, the courts should normally not interfere with such awards”.*

8. Above said view has been reiterated by the Kerala High Court in **Reliance General Insurance Company Limited vs. Adila and others, Law Finder Doc ID # 1921609**, paras 16 and 17 of which read as under:-

“16. The other area of dispute is that the Tribunal after awarding compensation under the conventional heads has awarded Rs.75,000/- towards loss of love and affection and Rs.10,000/- awarded towards pain and sufferings.

*17. In **New India Assurance Co., Ltd v. Vineesh.J [2018 (3) SCC 619]**, the Hon'ble Supreme Court has held that the Appellate Court can permit variation of plus or minus 4 to 5 percent.”*

9. No judgment to the contrary has been cited by learned counsel for the appellants.

10. In view of the above facts, I find no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.

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

02.05.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No