IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 2290/2022 (O&M)

Date of decision: 20.02.2023

Santosh Kumari and others

……….Appellants.

Vs.

Rambir and another

……….Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Gourav Verma, Advocate for the appellants.

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.63,14,361/- awarded by the Motor Accident Claims Tribunal, Sonepat (hereinafter referred to as 'the Tribunal') vide Award dated 8.4.2021 passed in MACT Case NO.893/2018 filed u/s 166 read with Section 140 of the Motor Vehicles Act,1988. Vide the impugned Award, the driver-cum-owner, and insurer of the offending vehicle were held jointly and severally liable to pay the above compensation.

Brief facts of the case are that the Ld. Tribunal on the basis of pleadings and evidence before it, concluded that the deceased Krishan had died due to motor vehicular accident that took place on 29.09.2018 due to rash and negligent driving of offending vehicle bearing registration No. HR-06-M-0144 (hereinafter referred to as 'the offending vehicle') driven and owned by respondent no.1 and insured by respondent no.2 herein.

Learned counsel for the appellants seeks enhancement only on the ground that the deceased Krishan was having income of Rs.10 lacs per annum from agriculture and dairy farming. However, learned Tribunal while assessing the income of the deceased has not considered the said income. It is submitted that the agricultural income of the deceased is borne out from the Income Tax Return of the deceased for the Assessment Year 2018-10 Ex. PW1/A. It is submitted that the appellants had even examined PW1, Mr. Anil, Senior Tax Assistant, who deposed that as per Income Tax Return Ex.PW1/A for the Assessment Year 2018-19, income of the deceased from his business was Rs.4,78,500/- per annum.

No other argument has been advanced on behalf of the appellants.

I find no merit in the sole argument of the Ld. Counsel for the appellants.

It is established position in law that income from agriculture and dairy farming is not included while assessing income for purposes of computing compensation payable to claimants as, said income from land and dairy farm continues even after death of the deceased, and claimants are not deprived of the agricultural land or milch cattle. Thus, there is no loss of agricultural or dairy farming income. As such, there is no merit in the sole argument raised by the learned counsel for the appellants.

Further, perusal of the impugned Award shows that Ld. Tribunal has taken the age of the deceased as 45 years on the basis of his Aadhar Card, Ex. P14 and PAN Card Ex.P15. The claimants being widow, one son and two daughters, 1/4th deduction has been made towards personal expenses. Further, as per age of the deceased multiplier of 14 has been applied. Under the conventional heads, Rs.30,000/- has been awarded towards loss of estate and funeral expenses. Each of the claimants has also been awarded Rs.40,000/- each towards loss of consortium. Besides that, 25% of the income of the deceased has been added towards future prospects. Accordingly, on these bases total compensation of Rs.63,14,361/- has been awarded along with interest @ 9% per annum from the date of filing of the claim petition till actual realization.

I find the above said compensation to be most just and fair in the facts and circumstances of the case.

For the reasons stated above, finding no merit in this appeal the same is hereby, dismissed.

(Nidhi Gupta)
Judge

20.02.2023
Joshi

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**