

FAO 2360/2021  
2023:PHHC:037616

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO 2360/2021

Date of decision:02/03/2023

Smt. Saraswati and another

.....Appellants

Vs.

Partap Singh and others

.....Respondents

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

Present:-        Mr. Advocate Tarun Seth, Advocate for the appellants.

**Nidhi Gupta, J.**

Present appeal has been filed by the claimants/appellants-  
parents of deceased-Shubham, seeking enhancement of compensation of  
Rs.15.42 lacs granted vide Award dated 9.3.2020 passed by the Motor  
Accident Claims Tribunal, Fatehabad (hereinafter referred to as 'the  
Tribunal') in MACP 116/2019 filed u/s 166 of the Motor Vehicles Act,1988  
(hereinafter referred to as 'the Act').

Ld. Tribunal on the basis of pleadings and evidence adduced  
before it held that the deceased Shubham had died due to injuries suffered by  
him in motor vehicular accident that took place on 14.3.2018 due to rash and

negligent driving of car bearing registration NO. CH-01-BL-0818 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no. 3 herein. Ld. Tribunal awarded compensation as above along with interest @ 7.5% from the date of filing of the claim petition till realization.

Ld. Counsel for the appellants seek enhancement of compensation only on the ground that the income of the deceased has been taken as Rs.10,000/- p.m., which is on the lower side. Ld. Counsel submits that deceased was 21 years of age at the time of his death and working as a Cab Driver in Ola. It is stated that the deceased was earning Rs.25,000/- per month, and cogent evidence was led by the appellants in support of their claim; however, ld. Tribunal is in error in ignoring the said evidence.

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

Heard ld. Counsel for the appellants.

Perusal of the impugned Award shows that Ld. Tribunal has categorically recorded that PW-2/ claimant/appellant no.1-mother of the deceased had admitted in her cross-examination that she had "*not brought any documentary proof regarding the age of her son. She has no document to prove the occupation and income of Shubham*". Even now, nothing has been produced by the appellants in support of their claim.

In view of the above said undisputed statement, I find no error in the assessment of notional income of the deceased as made by the ld. Tribunal as Rs.10,000/- per month. I also find no error in the compensation as computed by the ld. Tribunal in the following manner. On the basis of

Post Mortem Report Ex.P4, age of the deceased was taken as 21 years. Addition of 40% was made towards future prospects. Since the deceased was bachelor deduction of 50% towards personal expenses was made. By applying the multiplier of 18 the compensation was worked out to be Rs. 15,12,000/- (Rs.7000 x 12 x 18). Rs.15,000/- each was granted on account of loss of estate, and funeral expenses, and thus, the total compensation came to be Rs. 15.42 lacs.

I find no error in the assessment of compensation made by the Id. Tribunal, as noticed above. 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.

Finding no merit in this appeal the same is hereby, dismissed.

02/03/2023  
Joshi

(Nidhi Gupta)  
Judge

Whether speaking/reasoned  
Whether reportable

Yes  
Yes/No