

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 2777/2022
Date of decision:14/03/2023

Shakuntla Rani and others

.....Appellants

Vs.

Sukhdev Singh and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vishal Jassal, Advocate for
 Mr. Vivek Suri, Advocate for the appellants.

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.20,05,000/- granted by Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal') vide Award dated 12.4.2022 passed in MACP No.32/2019 filed under Section 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act').

Brief facts of the case are that Id. Tribunal on appraisal of facts, pleading and evidence produced before it concluded that the deceased Mangat Ram had died due to injuries suffered by him in a motor vehicular accident that took place on 3.11.2018 due to rash and negligent driving of Truck bearing registration NO. HR-37D-2669 (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. Claimants are widow, mother and three major children aged 31, 33 and 28 years respectively, of the

deceased Mangat Ram. Ld. Tribunal awarded compensation as above along with interest @ 6% per annum from the date of filing of the claim petition till realization. Respondents were held jointly and severally liable to pay the compensation.

Ld. Counsel seeks enhancement of compensation on the singular ground that the deceased was a Driver of Heavy Vehicles and was earning Rs.25,000/- per month as salary, however, ld. Tribunal has taken the salary of deceased as Rs.12,000/- per month only. It is submitted that sufficient evidence was led by the appellants/claimants to prove the income of the deceased, to which the respondents did not lead any evidence in rebuttal. It is submitted that therefore, ld. Tribunal has taken the income of the deceased as Rs.12,000/- only by applying guess work.

No other argument has been raised on behalf of the claimants.

Heard ld. Counsel.

Perusal of the record of the case shows that the ld. Tribunal has clearly recorded in para 15 of the impugned Award that: -

15.Now, coming to the income of the deceased. It is claimed by the claimants that the deceased was working as a Driver of heavy vehicle i.e. canter bearing registration no. PB-11T-MP-1326 of Harpreet Singh, who was running dairy with name of New Punjab Dairy, Rajpura and supplied Amul Milk to the locality. The deceased was drawing salary of Rs.25,000/- per month. To prove the income of the deceased, the claimants have not placed on record any proof regarding income of the deceased. Even the said Harpreet Singh on whose dairy the deceased was

allegedly working as driver has not been examined.
Therefore, for the purpose of this claim petition
income of the deceased is assessed as Rs.12,000/- per
month, being driver. Since the deceased was married
at the time of his death and considering the number of
dependents of deceased, i.e. widow, three children
and mother, who are the claimants, 1/4th of the
earnings of the deceased is to be deducted, on account
of personal expenses.” (Emphasis supplied)

Ld. Counsel for the appellants is unable to controvert the
above said findings of the ld. Tribunal.

Further perusal of the Award shows that ld. Tribunal has
awarded compensation as under:-

Sr.No.	Heads of claim	Amount
1	Annual income	Rs.12,000 x 12 = 1,44,000
2	25% future prospects	Rs.36,000/-
3	Total amount income of deceased	Rs.1,80,000/-
4	Personal and living expenses(1/4 th)	Rs.45,000/-
5	Income after deduction of personal and living expenses	Rs.1,35,000/-
6.	Multiplier	13 (Thirteen)
7	Loss of dependency	Rs.1,35,000x13 = Rs.17,55,000/-
8.	Funeral expenses	Rs.15,000/-
9	Loss of Estate	Rs.15,000/-
10.	Loss of consortium	Rs.44,000x5= Rs.2,20,000/-
	Total	Rs.20,05,000/-

In my view, the learned Tribunal has awarded just and fair
compensation in the facts and circumstances of the case, and no case for
interference is made out. No doubt Chapter-12 of the Motor Vehicles Act,
1988 is a beneficial legislation yet, as cautioned by the Hon’ble Supreme

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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.

Present Appeal accordingly, stands **dismissed**.

Pending application(s),if any, stand disposed of.

14/03/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No