

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.107

Case No. : FAO-4618-2023 (O&M)

Date of Decision : September 02, 2023

Sarabjeet Kaur and another Appellants
vs.

Gurinder Singh and others Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Arvind Rajotia, Advocate
for the appellants.

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GURBIR SINGH, J. :

1. **CM No.15835-C-II of 2023** : This is application under Section 5 of the Limitation Act, 1963 for condonation of delay of 82 days in filing the present appeal. For the reasons mentioned in the application, the same is allowed and delay of 82 days in filing the present appeal is condoned. The application stands disposed of.

2. **Main Appeal** : The present appeal has been filed against the Award dated 07.01.2023, passed by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (for brevity – the learned Tribunal) in the claim petition filed by respondent no.3 herein – Manpreet Kaur, wife of late Jagjeet Singh.

3. The appellants no.1 and 2 herein are parents of the deceased, who were impleaded as proforma respondents no.3 and 4, before the learned Tribunal. Respondents no.1 and 2 before this Court as well as before the

learned Tribunal are Driver and Insurer respectively of the offending car. Respondent no.3 herein is widow of the deceased, who filed claim petition before the learned Tribunal (hereinafter referred to as – the claimant).

4. The claimant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short – the Act), for grant of compensation on account of death of her husband Jagjeet Singh in a motor vehicular accident which took place on 25.03.2022, against driver and Insurance Company as respondents no.1 and 2 respectively. The parents of the deceased were impleaded as proforma respondents no.3 and 4 in the said petition. The learned Tribunal, on the basis of evidence led on the file, came to the conclusion that Jagjeet Singh died in the motor vehicular accident caused by respondent no.1 – driver of the offending car bearing No.PB-10CF-5076, while driving the vehicle in rash and negligent manner. Income of the deceased was assessed at Rs.18,000/- per month. The learned Tribunal, keeping in view the age of the deceased as 32 years at the time of accident, applied multiplier of ‘16’, deducted 1/3rd of income of the deceased as personal expenses and added 40% of his income as future prospects. Total compensation of Rs.33,90,600/- was awarded and it was directed to be shared by claimant Manpreet Kaur (widow) to the extent of 50%, Sarbjeet Kaur (mother) and Gian Singh (father) to the extent of 25% each. Liability of respondents no.1 and 2 (driver and Insurance Company) to pay the aforesaid compensation was held to be joint and several.

5. Learned counsel for the appellants has argued that the claimant entered into an agreement dated 27.06.2022 with them, which was duly attested by the Executive Magistrate, Sub Tehsil Mandi Gobindgarh, District

Fatehgarh Sahib. It was specifically stated therein that the claimant would not be entitled for the compensation awarded by the learned Tribunal on account of accidental death of her husband and her in laws would be entitled to get the same. However, the learned Tribunal failed to consider the same that the appellants were entitled for the entire compensation, as per the compromise entered between the parties.

6. I have heard learned counsel for the appellants and have gone through the file.

7. From the Award in question, it is clear that the appellants did not file written statement. So, the appellants are not entitled to raise any objection against the Award, on the basis of compromise, in the present appeal for the very first time. The said agreement in question is not proved during trial of the case and therefore, the same cannot be taken into consideration. There cannot be any estoppel against the Statute. So, the learned Tribunal has rightly held that any compromise, contrary to the Statute, cannot be enforced.

8. In view of the above, I do not find any merit in the present appeal, which is accordingly dismissed in limine.

9. Pending applications, if any, shall stand disposed of along with this judgment.

September 02, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.