

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO 5058/2019 (O&M)

Date of decision: 16.05.2023.

Meena Dhanda and another

.....Appellants

Vs.

Pawan and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ajit Singh Lamba, Advocate for the appellants.

Nidhi Gupta, J.

1. Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.13,19,830/- granted by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') vide Award dated 30.4.2019 passed in MACT Case No.143/2017 u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'). Claimants are parents of the deceased Rajat Dhanda who was aged 16 years at the time of accident.

2. Ld. Tribunal on appraisal of facts, pleadings and evidence on record held that the deceased had died due to injuries suffered by him in motor vehicular accident that took place on 25.10.2016 due to rash and negligent driving of Tata Zest Car bearing temporary registration No. HR-99WB(T)-2229 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3. The Tribunal awarded compensation as above along with interest @ 6% per annum from the

date of filing of the claim petition till realization. Liability to pay the compensation was fastened upon respondents jointly and severally.

3. Ld. Counsel for the appellants seeks enhancement of compensation on the ground that the nothing has been granted by the Ld. Tribunal on account of loss of love and affection; and that interest @ 6% as granted by the Tribunal is on lower side.

4. No other argument has been raised.

5. Heard ld. Counsel.

6. Perusal of the impugned Award shows that age of the deceased has been determined to be 16 years at the time of his death. Ld. Tribunal took notional income of the deceased as Rs.9258/- per month on the basis of Haryana Government General Administration Department Letter No.16/7/2015-3GG II dated 11.9.2017 as per which the wages/honorarium of contractual/outsource persons engaged under outsourcing policy dated 6.4.2015 had been revised to Rs.9258/- for unskilled persons w.e.f. 1.1.2016. Further, in accordance with judgment of Hon'ble Supreme Court in **National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680**, ld. Tribunal made an addition of 40% towards future prospects. As the deceased was bachelor at the time of death, ld. Tribunal correctly made a deduction of 50% towards personal expenses. Since the deceased was 16 years at the time of his death, ld. Tribunal correctly applied multiplier of 18; and therefore, assessed total compensation as Rs.12,49,830/-. Ld. Tribunal, under conventional heads, granted Rs.70,000/- i.e. 15,000/- towards loss of estate; Rs.40,000/- towards loss of consortium and Rs.15,000/- towards funeral expenses. Accordingly, argument of the ld. Counsel that nothing has been granted towards loss of love and affection is factually incorrect as Rs.40,000/- has been granted towards loss of consortium. Even otherwise, as per judgments of

the Hon’ble Supreme Court in **Shri Ram General Insurance Company Limited v Bhagat Singh Rawat & others,C.A.No.2410-2412/2023; Mehmooda Bee & others v National Insurance Co. Ltd., SLP (C) No.16767 of 2022; and Bebi Giri vs. National Insurance Co. Ltd., Civil Appeal No.6551 of 2022 (SLP(C) No.8768 of 2018**, total amount of Rs.70,000/- only can be granted under the conventional heads. Grant of interest @ 6% per annum is also just and correct.

7. 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 interference of this Court. In case of **KSRTC Versus Susamma Thomas (1994) 2 SCC 176**, the Hon’ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

8. Dismissed.

9. Application(s),if any, also stand disposed of.

(Nidhi Gupta)
Judge

16.05.2023
Joshi

Whether speaking/reasoned	Yes
Whether reportable	Yes/No