

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-354-2014 (O&M)
Date of decision: 14.02.2023

Farrukh & Another

...Appellant(s)

Vs.

Sale Khan & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ashish Gupta, Advocate for the appellants.

Service upon respondent No.1 dispensed with vide order dated 06.11.2019.

Mr. Neeraj Khanna, Advocate for respondent No.3.

NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.1,20,000/- awarded by Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as "the learned Tribunal") vide Award dated 23.03.2007 passed in MACT Case No.8 of 2005 filed under Section 163-A of the Motor Vehicles Act (hereinafter referred to as "the Act"). The claimants are parents of the deceased-Jakir Mohammad.

Learned Tribunal on the basis of pleadings and evidence placed before it concluded that 14-year-old deceased-Jakir Mohammad had died due to the injuries suffered by him in a motor vehicular accident that took place on 10.10.2004 due to rash and negligent driving of truck bearing registration No.HR-38C-5409 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1/driver, owned by respondent

No.2 and insured by respondent No.3 herein. Learned Tribunal awarded compensation as noted above along with interest @ 7.5% per annum from the date of filing the petition till its actual realization. Respondents No.2 and 3 were held jointly and severally liable to pay the aforesaid compensation amount.

Learned counsel for the appellants seeks enhancement of the compensation amount on the ground that the learned Tribunal has merely awarded a lumpsum payment of Rs.1,20,000/-. It is submitted that even no multiplier has been applied and nothing has been granted under any of the conventional heads. Learned counsel relies upon judgment of Hon'ble Supreme Court in ***Civil Appeal No.6902 of 2021 titled as "Kurvan Ansari @ Kurvan Ali & Another Vs. Shyam Kishore Murmu & Another"***.

Learned counsel also very fairly points out that in case this Court is inclined to allow this appeal, the appellants will not be entitled to interest for the delayed period of 2360 days in filing the appeal, in terms of order dated 06.05.2016 of this Court, whereby this Court had been pleased to condone delay of 2360 days in filing the present appeal.

In response, it is very fairly submitted by learned counsel for the Insurance Company that in conformity with the prevailing legal position, and as per the Second Schedule to the Act, and keeping in view age of the deceased, multiplier of 15 has to be applied.

I have heard learned counsel for the parties.

Office report shows that service of respondent No.2 is incomplete as correct address has not been filed by learned counsel for the appellants.

Learned counsel for the appellants submits that respondent No.2 is not a necessary party and hence, service upon him may be dispensed with.

Ordered accordingly qua respondent No.2.

It is undisputed that in a petition under Section 163-A of the Act, the Scheme/structured formula as contained in Schedule-II of the Act, has to be followed, whereunder inter-alia, compensation in a death case cannot exceed Rs. 5 lacs. Accordingly, in consonance with the said Scheme as stipulated in Schedule-II of the Act, as also in conformity with the law laid down by the Hon'ble Supreme Court in above-cited case of **Kurvan Ansari (supra)**, compensation admissible to the claimants herein is re-worked as follows:-

Notional Income	Rs.25,000/- per annum
Multiplier	15
Age	14 years
Loss of filial consortium	Rs.44,000/- each
Funeral expenses	Rs.16,500/-
Calculation	25,000 x 15 + 44,000 + 44,000 + 16,500 = Rs.4,79,500/- - Rs.1,20,000/- (awarded by learned Tribunal) = Rs.3,59,500/- along with interest as awarded by learned Tribunal.

Ratio of apportionment and manner of disbursement as determined by the learned Tribunal is maintained. Interest @ 7.5% as

granted by the learned Tribunal is maintained on enhanced compensation, from date of filing of claim petition till realization, excluding the delayed period of 2360 days, as directed by this Court vide order dated 06.05.2016.

Present appeal is accordingly, disposed of in above terms.

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

14.02.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No