

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.4772-2014

Date of decision: 31.01.2023

Nisha & Others

...Appellant(s)

Vs.

Ashok Kumar & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Kapish Singla, Advocate for
Mr. Ashit Malik, Advocate for the appellants.

Mr. Neeraj Khanna, Advocate and
Mr. Ravinder Arora, Advocate for respondent No.3.

NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.10,03,000/- awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as "the learned Tribunal") vide Award dated 03.03.2014 passed in MACT Case No.88 of 2013 filed under Sections 166 and 140 of Motor Vehicles Act. The claimants are the daughters, son, wife and parents of deceased Satish Kumar @ Kala.

Learned Tribunal on the basis of pleadings and evidence placed before it concluded that deceased-Satish Kumar @ Kala had died due to the injuries suffered by him in a motor vehicular accident that took place on 17.04.2013 due to rash and negligent driving of tractor bearing registration No.HR-05AD-9462 (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% per annum from the date of filing the petition till its actual realization. Respondents were held jointly and severally liable to pay the aforesaid compensation amount.

It is inter alia submitted by learned counsel for the appellants that learned Tribunal has taken income of the deceased as Rs.6,000/- per month which is not disputed. It is submitted that however, learned Tribunal is in error in not granting future prospects; and as age of the deceased was 25 years at the time of death, multiplier of 18 ought to have been applied whereas learned Tribunal has incorrectly applied multiplier of 17.

It is further submitted that learned Tribunal has granted only Rs.25,000/- as consortium to widow of the deceased, whereas each of the claimants are entitled to Rs.44,000/- as consortium.

It is further submitted that even under conventional heads, the claimants are entitled to Rs.16,500/- each for last rites of the deceased and for loss of estate.

It is further prayed that rate of interest be enhanced from 7% to 7.5% per annum.

It is also submitted that Rs.50,000/- granted by way of medical expenses may be maintained as also deduction of 1/4th on account of personal expenses be also maintained, being correct.

In response, it is submitted by learned counsel for respondent No.3-Insurance Company, that in view of the law laid down by Hon'ble Supreme Court in ***Civil Appeal No.3483 of 2008 titled as "Sarla Verma & Others Vs. Delhi Transport Corporation & Another"*** and

“National Insurance Co. Ltd. Vs. Pranay Sethi” (2017) 16 SCC 297, it cannot be denied that claimants are entitled to enhancement claimed as above.

Accordingly, in view of the admitted legal position, compensation admissible to the appellants is re-worked as follows:-

HEADS	AWARDED	CLAIMED
Income	Rs.6,000/-	Rs.6,000/-
Future prospects		40%
Dependency	1/4 th	1/4 th
Multiplier (Age 25 years)	17	18
Compensation	Rs.9,18,000/-	Rs.13,60,800/-
Loss of consortium	Rs.25,000/-	Rs.44,000/-
Loss of Filial and Parental Consortium		Rs.2,20,000/-
Last rites	Rs.10,000/-	Rs.16,500/-
Loss of estate		Rs.16,500/-
Interest	7%	7%
Medical Expenses	Rs.50,000/-	Rs.50,000/-
Total	Rs.10,03,000/-	Rs.17,07,800/-

Interest @ 7% per annum is maintained. Ratio of apportionment and manner of disbursement as determined by the learned Tribunal is maintained.

Present appeal is disposed of in above terms.

31.01.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No