

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 6046/2014 (O&M)

Date of decision:17/01/2023

Noor Hassan

.....Appellant.

Vs.

Gaurav and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. JS Saneta, Advocate for the appellant.

Nidhi Gupta, J.

Present appeal has been filed against dismissal of the claim petition bearing MACT Case NO.112/2013 by learned Motor Accident Claims Tribunal, Panipat (for short 'the Tribunal') vide Award dated 3.3.2014.

It is submitted by the learned counsel that the claim of the appellant has been rejected only on the ground that he is 36 year old son of the deceased and was not dependent upon the income of the deceased which is in contravention of the law laid down by the Hon'ble Supreme Court. However, ld. Counsel does not refer to any judgment of the Hon'ble Supreme Court in support of his contention.

No other argument has been advanced by the learned counsel for the appellant.

Heard Ld. Counsel.

Relevant para 22 of the impugned Award is reproduced

hereinbelow:

“22. However, while appearing as PW1, claimant Noor Hasan has disclosed his age as 36 years and profession as agriculturist. He has further deposed that he has two more brothers namely Rahis and Kaum. Rahis is about 42 years of age and Kaum is about 38 years of age and he as well as his brothers are married. In this way, claimant Noor Hasan can not be considered to be dependent upon deceased Hasina in any manner. When he is not dependent upon deceased Hasina, there is no question of considering the point of dependency, in my considered view. Further, from his evidence, it is not established on record that deceased Hasina used to live with him, which may lead to inference that he has lost love and affection of his mother. No ration card etc. has been proved on record in this regard. As per the statement of claimant Noor Hassan as PW1, he has two more brothers. Apparently, the other two brothers of claimant namely Rahis and Kaum have not sought any compensation and it is not clear as to with whom, deceased Hasina used to reside. Further, though while appearing as PW1, claimant Noor Hassan deposed that he has spent Rs.50,000/- on last rites of the deceased and transportation of dead body, however, perusal of petition of claimant Noor Hassan shows that no such pleading has been taken by him, at the time of filing of the petition. As such, it can not be held with certainty as to whether he has, in fact, spent any such amount on last rites of deceased and transportation of dead body. In these circumstances, I am of the considered view that claimant Noor Hassan is not entitled to any compensation on account of death of his mother Hasina in the present accident”.

Learned counsel for the appellant is unable to controvert the above facts.

Further, the view postulated by the Id. Tribunal to the effect that major children of the deceased who are not dependent on the income of the deceased, is supported by the decisions rendered by this Court in cases of **Harpal Kaur and others v Sita Ram and others, Law Finder Doc Id # 921104; Narender Nayyar v Sheodan Singh and others, Law Finder Doc Id # 626136; and Sajna Devi and others v Vijender Kumar and Others, Law Finder Doc Id # 921100.**

Accordingly, I find no merit in this appeal, and the same is
hereby dismissed.

17/01/2023
Joshi

(Nidhi Gupta)
Judge