

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 3434/2016 (O&M)

Date of decision: 18/04/2023

Smt.Phooli Devi and others

.....Appellants

Vs.

Satish and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Harish Nain, Advocate for the appellants.

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.6.60 lacs awarded by the Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal') vide Award dated 22.1.2016 passed in Claim Petition no.158/2014 under Section 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'). Claimants are widow, major son, and two major daughters of the deceased Ram Sarup.

Facts in brief are that Id. Tribunal on the basis of pleadings and evidence led by the parties held that the deceased Ram Sarup died due to injuries suffered by him in a motor vehicular accident that took place on 17.9.2014, due to the rash and negligent driving of Ritz Car bearing No. HR 79-2255 (hereinafter referred to as 'the offending vehicle'), being driven by respondent no.1, owned by respondent no.2, and insured by respondent no.3.

Ld. counsel for the appellants seeks enhancement of compensation on the ground that ld. Tribunal ought to have granted Rs.1 lac each to appellants no. 2 to 4, children of the deceased, towards loss of love and affection, and Rs.1 lac for the loss of estate, and further Rs.1 lac towards funeral expenses. It is further submitted that nothing has been granted by way of interest on the awarded amount from the date of accident.

No other argument has been raised.

Heard ld. counsel.

Perusal of the impugned Award shows that ld. Tribunal has awarded compensation in the following manner:-

Sr.No.	Head	Amount (in Rupees)
1	Monthly income	7000/-
2	Annual income	84,000/-
3	1/4 th Deduction	21,000/-
4	Annual dependency	63,000/-
5	Multiplier	7
6	Total compensation	4,41,000/-
7	Loss of consortium	1,00,000/-
8	Loss of love and affection	1,00,000/-
9	Funeral rites	19,000/-
10	Total compensation	6,60,000/-

In the present case, age of the deceased is admitted to be 65 years at time of death. Claimants/ appellants no. 2 to 4 are admittedly, major children of the deceased. In my view, the learned Tribunal has awarded just and fair compensation in the facts and circumstances of the case and no case for interference is made out. 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. Moreover, compensation awarded upon the death of a near and dear loved one cannot be made a market negotiation, where every penny has to be calculated and drawn. Hon’ble Supreme Court in *State of Haryana v. Jasbir Kaur, (1999)1 SCC 90* and *Divisional Controller K.S.R.T.C. v. Mahadev Shetty, (2003) 7 SCC 197*, has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. 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, and therefore, does not warrant the interference of this Court. In case of **KSRTC Versus Susamma Thomas 1994 Volume-II SCC 176**, the Hon’ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

Dismissed.

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

18/04/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No