

FAO No. 5590 of 2016
DATE OF DECISION :- February 16, 2023

Versus

FAO No. 7696 of 2016

Versus

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Mr. Jatinder Dhanda, Advocate for the appellant
in FAO No. 7696 of 2016 and for respondents No. 1 and 2
in FAO No. 5590 of 2016.

Briefly stated the facts of the case are that on account of death

of Shammi @ Monu, aged about 19 years in a motor vehicular accident which took place on 21.2.2015 at about 7.30 A.M near Sukhdev Dhaba, G.T. Road, Sonapat, statedly on account of rash and negligent driving of tempo bearing registration No. DL-1-LT-8367 by respondent No. 1 Parveen, parents of the deceased namely his father Sh. Ram Singh, aged about 60 years, mother Smt. Krishna Devi, aged about 58 years had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against Parveen, driver, Om Vati, owner and Shri Ram General Insurance Company Ltd., Sonapat, insurer of that vehicle. That claim petition along with a connected claim petition filed by one Sarita, who had suffered injuries in that motor vehicular accident were tried together by Motor Accident Claims Tribunal, Sonapat and after contest both the claim petitions were allowed. Claim petition brought by Ram Singh and Krishna Devi was accepted and compensation of Rs.16,45,000/- with interest at the rate of 7.5% per month was awarded to the claimants payable by respondents No. 1 to 3 jointly and severally.

Respondent No. 3 Insurance Company feeling aggrieved by that Award has challenged the same by way of filing the present appeal notice of which was given to the respondents. The respondents claimants have put in appearance through counsel. It may be mentioned here that petitioners claimants were also dissatisfied with the Award being of the view that compensation awarded to them was on lower side as such they have filed a separate appeal bearing FAO No. 7696 of 2016 seeking enhancement of compensation which is being contested by the respondent Insurance Company.

I have heard learned counsel for the parties besides going

through the record.

The Motor Accident Claims Tribunal, Sonapat on analysis of the evidence brought before it has returned a clear finding that respondent No. 1 Parveen was author of the accident by his rash and negligent driving of the offending vehicle resulting in death of deceased namely Shammi @ Monu and injuries to Sarita. For that reason petitioner claimants, who are parents of the deceased were found entitled to claim compensation from the driver, owner and Insurance Company of the offending vehicle. While quantifying compensation payable to the petitioners claimants the Tribunal has taken age of deceased to be 19 years and his monthly income as Rs.10,000/- per month from his avocation as a salesman with Paras Enterprises, Rohtak. Considering the evidence brought on record by the claimants in absence of any rebuttal evidence the age of deceased so taken and his monthly income considered was rightly done. However, the Tribunal fell in error in adding 50% of the amount towards future prospects when as per settled law only 40% of the amount should have been added in that regard. Doing that the monthly income of the deceased comes out to Rs.14,000/-. Considering that he was a bachelor, 50% of the amount is to be deducted towards his personal and living expenses. In that way dependency of the claimants comes out to Rs.7,000/- per month. The annual dependency comes out to $\text{Rs.7000} \times 12 = \text{Rs.84,000/-}$. The Tribunal has rightly applied multiplier of 18. In that way, the total compensation comes out to $\text{Rs.84,000} \times 18 = \text{Rs.15,12,000/-}$. Both the petitioners claimants are entitled to get Rs.40,000/- under each Head loss of consortium and Rs.15,000/- under the Head loss of Estate and Rs.15,000/- as funeral expenses. The total amount is thus worked out to Rs.16,22,000/-. The

Tribunal has awarded compensation of Rs.16,45,000/- which is reduced to Rs.16,22,000/-. The petitioner claimants shall be entitled to get interest at the rate of Rs.7.5% on this amount from the date of filing of claim petition till actual realization, the liability to pay this amount shall be joint and several of all the three respondents. The directions issued by the Tribunal in the impugned Award with regard to the apportionment and payment shall remain intact. With such observations, the appeal filed by the appellant Insurance Company i.e. FAO No. 5590 of 2016 is allowed. It being so, the appeal filed by the petitioner claimants seeking enhancement of compensation i.e. FAO No. 7696 of 2016 stands dismissed. The cost of Rs.25,000/- deposited by the appellant Insurance Company be remitted to the Tribunal for disbursement to the petitioners claimants.

(H.S. MADAAN)
JUDGE

February 16, 2023
p.singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No