

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-6033-2016 (O&M)
Date of decision: 17.02.2023

Bimla & Others

...Appellant(s)

Vs.

Surender Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. D.P.S. Nain, Advocate for
Mr. Vikrant Hooda, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for respondent No.3.

NIDHI GUPTA, J.

CM-20481-CII-2016

This is an application under Section 151 CPC seeking exemption from filing certified copy of Award dated 29.02.2016.

After going through the contents of the application, the same is allowed subject to all just exceptions.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.14,40,000/- awarded by Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as "the learned Tribunal") vide Award dated 29.02.2016 passed in MAC Petition No.10 of 2014 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). The claimants are wife and major children of deceased-Ved Pal.

2. Learned Tribunal on the basis of pleadings and evidence placed before it concluded that deceased-Ved Pal had died due to the injuries suffered by him in a motor vehicular accident that took place on 11.02.2014 due to the rash and negligent driving of car bearing registration No.HR-06AC-4216 (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 @ 8% per annum from the date of filing the petition till its actual realization. Respondents were held jointly and severally liable to pay the amount of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation inter alia on the ground that;

a) income of the deceased has been taken as Rs.15,000/- per month which is on lower side. It is submitted that deceased was working as Site Supervisor in M/s Tirupati Products and was drawing monthly salary of Rs.20,000/-;

b) learned Tribunal ought to have appreciated that the deceased was having a daughter who was of marriageable age and a son 19 years of age, who is at threshold of his career;

c) that rate of interest of 8% is also on lower side and it should be at least 9% per annum.

4. No other argument is raised on behalf of the appellants.

5. In response, learned counsel for respondent No.3 submits that;

a) in fact compensation awarded to the appellants is on higher side as admittedly the deceased was 62 years of age at the time of death. It is submitted that accordingly as per law laid down by the Hon'ble Supreme Court in case of **Sarla Verma Vs. Delhi Transport Corporation (2009) AIR (SC) 3104**, multiplier of 7 ought to have been applied;

b) learned Tribunal has taken income of the deceased on the basis of an unproved document Mark-B, which is on higher side;

c) exorbitant amount of Rs.60,000/- has been granted towards funeral and transportation expenses; and each of the three claimants has been granted consortium of Rs.1,00,000/-.

6. Learned counsel for the appellants is unable to controvert the above facts which are well borne out from the record.

7. 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. 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 more than 'just' compensation, which is in accordance with the law laid down by the Hon'ble Supreme Court 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.

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

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

17.02.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No