

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

237

FAO-2158-2018 (O&M)

Date of decision: 28.02.2023

Dharambir & Others

...Appellant(s)

Vs.

Ranvir Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Arun Singal, Advocate for the appellants.

Mr. Punit Jain, Advocate for respondent No.3.

NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.11,97,000/- awarded by Motor Accident Claims Tribunal, Panipat (hereinafter referred to as "the learned Tribunal") vide Award dated 24.10.2017 passed in MACT Case No.18 of 2016 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). Claimants are husband and two minor children of deceased-Rekha.

2. Learned Tribunal on the basis of pleadings and evidence placed before it concluded that deceased-Rekha had died due to injuries suffered by her in a motor vehicular accident that took place on 21.10.2015 due to rash and negligent driving of truck-tralla bearing registration No.UP-11T-5299 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. Learned Tribunal awarded compensation as noted above along with

interest @ 7.5% 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.

3. Learned counsel for the appellants seeks enhancement of compensation on the ground that total sum of Rs.45,000/- only has been granted towards loss of consortium, loss of estate and funeral expenses.

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

5. It is submitted by learned counsel for respondent No.3 that learned Tribunal has made an addition of 50% towards future prospects, whereas in view of the fact that deceased was 33 years of age at the time of accident and was self-employed, addition of 40% could have been made in view of the judgment of Hon'ble Supreme Court in **Sarla Verma Vs. Delhi Transport Corporation (2009) AIR (SC) 3104.**

6. I have heard learned counsel for the parties.

7. a) Perusal of impugned Award shows that at the time of death deceased was admittedly, a housewife;

b) Learned Tribunal has determined age of the deceased on the basis of her high school examination certificate (Exhibit P14) wherein her date of birth has been mentioned as 19.07.1982. Accordingly, age of the deceased was established to be 33 years at the time of accident;

c) Though it has been submitted on behalf of appellants before the learned Tribunal that deceased was earning Rs.16,000/- per month by imparting tuitions to children, however, as no documentary proof

in support of this oral testimony was led by them, accordingly, learned Tribunal had taken notional income of the deceased as Rs.6,000/- per month;

d) 50% was added towards future prospects;

e) Deduction of $\frac{1}{3}^{\text{rd}}$ was correctly made towards personal expenses; and accordingly, dependency was calculated as 72,000/- per annum;

f) Multiplier of 16 was correctly applied;

g) Rs.10,000/- was granted towards loss of consortium, Rs.10,000/- towards loss of estate and Rs.25,000/- towards funeral expenses;

h) Thus, total compensation comes to Rs.11,97,000/-.

8. I am in agreement with the submissions made on behalf of both the parties. Accordingly, compensation awarded to the appellants is re-worked as follows:-

HEADS	AMOUNT
Income	Rs.6,000/- per month
40% future prospects	Rs.8,400/- (6,000 + 2,400)
Multiplier	16
Deduction	$\frac{1}{3}^{\text{rd}}$
Loss of dependency	$5,600 \times 12 \times 16 = \text{Rs.}10,75,200/-$
Consortium (parental + spousal)	Rs.1,32,000/-
Funeral + loss of estate	Rs.33,000/-
Total	Rs.12,40,200/-

9. Rate of interest of 7.5% per annum as granted by the learned Tribunal is maintained on enhanced compensation from date of

filing the claim petition till realization. Ratio of apportionment and manner of disbursement as determined by the learned Tribunal is maintained.

10. Present appeal stands disposed of in above terms.

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

28.02.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No