

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
236 **FAO-5163-2017 (O&M)**
Date of decision: 17.05.2023

Surjit Kaur

...Appellant(s)

Vs.

Amarjit Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rajbir Singh, Advocate
for the appellants.

NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.11,23,000/- granted by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as "the learned Tribunal") vide Award dated 05.12.2016 passed in Motor Accident Claim Case No.256 of 15.12.2015 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act") for grant of compensation of Rs.40,00,000/- on account of death of Harbans Singh. The three Claimants are the widow, and two major sons of the deceased aged 41 years and 38 years respectively. Sole appellant herein/claimant No.1 is the widow of the deceased.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased-Harbans Singh had died due to injuries suffered by him in a motor vehicular accident that took place on 05.09.2015 due to rash and negligent driving of truck bearing registration No.PB-08AN-1863

(hereinafter referred to as 'the offending vehicle'), being driven and owned by respondent No.1 and insured by respondent No.2. Learned Tribunal awarded compensation as above along with interest @ 7% per annum from the date of filing the claim petition till realisation. Respondents were held jointly and severally liable to pay the amount of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation on the singular ground that the learned Tribunal has made a deduction of 50% towards personal expenses of the deceases; whereas, keeping in view the fact that the claimants are 3 in number, a deduction of 1/3rd ought to have been made towards personal expenses.

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

5. I have heard learned counsel for the appellant.

6. Perusal of impugned Award shows that the deceased was a retired Hindi teacher from Government Senior Secondary School, Mullowal and was drawing a pension of Rs.25,000/- per month. Though it was the pleaded case of the claimants that the deceased was earning an additional Rs.25,000/- per month from doing tuition work, however, as no evidence was led by the claimants in this respect, learned Tribunal took income of the deceased as Rs.24,000/- per month on the basis of the statement of bank account of the deceased.

7. It has been held by the Hon'ble Supreme Court in **"New India Assurance Co. Ltd. Vs. Vinish Jain & Others"** Law Finder Doc ID # 977386 and this Court in **(P&H) Harpal Kaur & Others Vs. Sita**

Ram &Others, Law Finder Doc Id # 921104; Narender Nayyar Vs. Sheodan Singh & Others, Law Finder Doc Id # 626136 and Sajna Devi & Others Vs. Vijender Kumar & Others, Law Finder Doc Id # 921100, that major sons of the deceased are not entitled to compensation. Admittedly, claimants No.2 and 3 are major sons of the deceased and their pecuniary dependence upon income of the deceased was not proven on record. Accordingly, learned Tribunal has correctly made a deduction of 50% towards personal expenses. No judgment to the contrary has been cited by learned counsel for the appellant.

8. As age of the deceased was taken to be 65 years on the basis of his post-mortem report, accordingly, multiplier of 7 was correctly applied. In this manner, learned Tribunal calculated amount of compensation to be Rs.10,08,000/-. Learned Tribunal further granted Rs.1,00,000/- towards loss of consortium; Rs.10,000/- towards funeral expenses and Rs.5,000/- towards transportation. Thus, granting a total compensation of Rs.11,23,000/-. Compensation as awarded by learned Tribunal is in following manner in tabular form:-

Heads	Amounts
Income	Rs.24,000/- per month
Annual income	Rs.24,000/- x 12 = Rs.2,88,000/-
Deduction	(50%) Rs.2,88,000/- - Rs.1,44,000/- = Rs.1,44,000/-
Multiplier	(7) Rs.1,44,000/- x 7 = Rs.10,08,000/-
Loss of consortium	Rs.1,00,000/-
Funeral expenses	Rs.10,000/-
Transportation	Rs.5,000/-
Total	Rs.11,23,000/-

9. Accordingly, in view of the discussion above, I find no case is made out that merits interference with the impugned Award. I find the compensation awarded to the appellant to be just and fair in the facts and circumstances of the case. No doubt Chapter-12 of the Act 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 Vs. Jasbir Kaur, (1999) 1 SCC 90** and **Divisional Controller K.S.R.T.C. Vs. 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. Thus, 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, 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 Vs. 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.

10. In view of the above facts, I find no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed.**

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

17.05.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No