

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 518/2017(O&M)

Date of decision: 26.04.2023.

Sushila and others

.....Appellants

Vs.

Satyawan and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Chirag Kundu, Advocate for the appellants.

Mr. RC Sapra, Advocate for

Mr. B.S.Taunqe, Advocate for the respondents

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.18,04,500/- granted by Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal') vide Award dated 30.8.2016 passed in MACT petition No.86/2016 filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'). The six claimants are the widow, three minor children, and parents of the deceased - Vijay Kumar.

Ld. Tribunal on the appraisal of pleadings and evidence adduced before it held that the deceased had died due to injuries suffered by him in motor vehicular accident that took place on 9.2.2016 due to rash and negligent driving of truck bearing registration No. HR-46B-9972 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent

no.3. The Tribunal awarded compensation as above alongwith interest @ 6% per annum from the date of filing of the claim petition till realization. Liability to pay the compensation was joint and several.

Ld. counsel for the appellants seeks enhancement of compensation on the ground that consortium ought to have been granted individually to each of the six claimants, whereas ld. Tribunal has granted only Rs. 1 lac towards loss of love and affection, and Rs. 1 lac towards loss of consortium. It is further submitted that Tribunal has taken the age of the deceased as 40 years whereas deceased was 39 years at time of death.

No other argument has been raised.

Heard ld. counsel.

Perusal of the record of the case shows that ld. Tribunal determined age of the deceased to be 40 years on the basis of his death certificate Ex.P3. Learned counsel for the appellant is unable to support his contention as to why age of the deceased should be taken as 39 years. Accordingly, said submission on behalf of the appellant is rejected being unsubstantiated and baseless.

As regards contention of the ld. counsel for the appellants that consortium of Rs.44,000/- ought to have been granted to each of the six claimants/5 appellants herein, said submission is liable to be rejected in view of the latest judgment of Hon'ble Supreme Court **Civil Appeal Nos. 2410-2412 of 2023 Shri Ram General Insurance Com. Ltd. vs. Bhagat Singh Rawat & ors.** wherein it has been held that *total* amount payable under the head of consortium is Rs.40,000/-; meaning thereby that consortium in toto of Rs. 40,000/- has to be granted, and

claimants are not entitled to consortium of Rs. 40,000/- each. Hon'ble Supreme Court in the above said judgment has also held that Rs.15,000/- has to be granted by way of funeral expenses and loss of estate each. However, has held that 10% increase thereupon has to be given.

Above said judgment of the Hon'ble Supreme Court in **Bhagat Singh Rawat (supra)** has been reiterated by the Hon'ble Supreme Court in SLP (C) No. 16767 of 2022 titled as “**Mehmooda Bee & Others Vs. National Insurance Co. Ltd**”; and in Civil Appeal No.6551 of 2022 titled as “**Bebi Giri Vs. National Insurance Co. Ltd.**”, to hold that all claimants would be entitled to a total sum of Rs. 70,000/- under the conventional heads. However, it has also been held that an increase of 10% is required to be made thereupon.

Perusal of impugned Award shows that as there was no proof of income of the deceased, ld. Tribunal has assessed notional income of the deceased as Rs.9000 per month as that of a daily labourer for the financial year 2015–2016. As deceased was 40 years of age, at time of death, learned Tribunal has made an addition of 30% towards future prospects. As claimants/appellants are five in number, learned tribunal correctly made a deduction of 1/4th towards personal expenses. Deceased being 40 years of age, ld. Tribunal has correctly applied multiplier of 15, thus, taking total loss of dependency to be Rs.15,79,500. Learned Tribunal has further added Rs.1,00,00 towards loss of love and affection, and Rs.1,00,00 towards loss of consortium, and Rs. 25,000 towards funeral expenses. As already noticed above, a total of Rs.70,000 can be awarded under the convention heads. Even no judgement to the contrary has been cited by learned Counsel for the appellants.

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 appellants 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. 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, 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.

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

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

26/04/2023.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No