

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-259-2018 (O&M)

Date of decision: 14.02.2023

Amar Kaur & Others

...Appellant(s)

Vs.

Jai Gopal & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Vijay Lath, Advocate and
Mr. Naveen Sharma, Advocate for the appellants.

Mr. Vinod Chaudhari, Advocate for respondent No.2

NIDHI GUPTA, J.

CM-808-CII-2018

This is an application under Section 5 of the Limitation Act for condonation of delay of 890 days in filing the appeal.

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.16,32,044/- awarded by Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as "the learned Tribunal") vide Award dated 27.02.2015 passed in Claim Petition No.RT No.109 dated 29.11.2011/10.11.2012 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). The claimants are

step-mother and major sons of deceased-Tirath Ram. Respondent No.3 herein is the second wife/widow of the deceased.

Learned Tribunal on the basis of pleadings and evidence placed before it concluded that deceased-Tirath Ram had died due to the injuries suffered by him in a motor vehicular accident that took place on 01.11.2011 due to rash and negligent driving of Qualis vehicle bearing registration No.HP-20C-3599 (hereinafter referred to as “the offending vehicle”) being driven and owned by respondent No.1, and insured by respondent No.2 herein. Learned Tribunal awarded compensation as noted above along with interest @ 6% per annum from the date of filing the petition till its actual realization. Respondents No.1 and 2 were held jointly and severally liable to pay the aforesaid compensation amount.

Learned counsel for the appellants submits that deceased was a Conductor in Punjab Roadways and earning Rs.18,790/- per month. It is stated that deceased was 56 years of age at the time of death as is borne out from copy of matriculation certificate Exhibit P3 in which his date of birth is 30.05.1955. It is submitted that accordingly, future prospects at the rate of 15% ought to have been added. However, learned Tribunal has granted nothing by way of future prospects.

It is further submitted that even under conventional heads, a total sum of Rs.1,10,000/- has been granted whereas claimants were entitled to Rs.44,000/- each by way of consortium.

No other argument is made on behalf of the appellants.

In response, it is submitted by learned counsel for respondent No.2 that claimant/appellant No.1 is not real mother of the deceased and therefore, she is not entitled to any compensation. It is further submitted that claimants/appellants No.2 and 3 being major sons of the deceased are also not entitled to any compensation. Learned counsel further submits that in view of the fact that there are three claimants, deduction of 1/3rd ought to have been made.

I have heard learned counsel for the parties.

I find merit in the submissions advanced on behalf of the appellants/claimants.

As per law laid down by the Hon’ble Supreme Court in **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram, 2018 (18) SCC 130; Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104; National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680**, addition of 15% towards future prospects has to be made. I further hold that claimants/appellants No.2 and 3 and respondent No.3 herein are entitled to consortium at the rate of Rs.44,000/- each. However, claimant/appellant No.1 being step-mother of the deceased cannot be termed as class-I legal heir and is therefore, not entitled to consortium. Accordingly, compensation is re-worked as follows:-

Head	Awarded by MACT	Ought to be
Income	18,790/-	18,790/-
Future prospects		15%
Multiplier	9	9
Deductions	1/4 th	1/3 rd
Total	Rs.15,22,044/-	Rs.15,55,848/-
Loss of love and affection	Rs.30,000/-	

Mental pain and agony	Rs.30,000/-	
Transportation + Last rites	Rs.50,000/-	
Consortium to appellants No.2 and 3 (Rs.44,000/- each)		Rs.88,000/-
Consortium to respondent No.3		Rs.44,000/-
Loss of estate		Rs.16,500/-
Funeral expenses		Rs.16,500/-
Total compensation	Rs.16,32,044/-	Rs.17,20,848/-

Interest at the rate of 6% per annum as awarded by the learned Tribunal is maintained. Ratio of apportionment and manner of disbursement as determined by the learned Tribunal is maintained

It is however directed that as per law laid down by this Hon’ble Court in ***FAO No.1150 of 2011 titled as “Pushpa Rani & Others Vs. Gurbant Singh & Others”***, claimants shall not be entitled to interest for the period of delay of 890 days.

Present appeal is accordingly, disposed of in above terms.

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

14.02.2023
Sunena

(Nidhi Gupta)
Judge

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