

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 251/2022

Date of decision:21/02/2023

Sadhu Ram and another

.....Appellants

Vs.

Gurpreet Singh and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Chandan Deep Singh, Advocate for the appellants.

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.2.30 lacs granted by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') vide Award dated 2.9.2021 passed in MACP No.471 of 24.7.2019 filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act').

Brief facts of the case are that the Ld. Tribunal on the basis of pleadings and evidence before it concluded that the deceased Ram Swarup had died due to injuries suffered by him in a motor vehicular accident that took place on 7.7.2019 due to rash and negligent driving of Pick & Carry Hydra Crane bearing

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registration No. HR-04-H-0236 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3 herein. Claimants are 65 years and 46 years old brothers of the deceased Ram Swarup.

It is submitted by the learned counsel for the appellants that though the Ld. Tribunal has calculated compensation to the tune of Rs.3.78 lacs, however, only Rs.2.30 lacs has been granted. It is submitted that the claimants being brothers of the deceased are entitled to the remaining compensation. Ld. Counsel for the appellants relies upon judgment of the Hon'ble Supreme Court in **National Insurance Company Ltd. V Birender and othes, Law Finder Doc Id # 1665184** to submit that Hon'ble Supreme Court has held therein that even major sons of the deceased are entitled to receive compensation and therefore, appellants/claimants being major brothers of the deceased are also entitled to receive the compensation. It is submitted that the deceased was a bachelor and there is no Class I legal heir of the deceased and therefore, claimants are entitled to receive the entire compensation. It is further submitted that in the present case employer of the deceased has stepped into the witness box and stated that he used to pay the deceased Rs.500/- per day. It is submitted that accordingly the income of the deceased ought to have been calculated as Rs.500 x 26 days (excluding Sundays) which comes to Rs.13,000/- per month, whereas, learned Tribunal has assessed income of the deceased as only Rs.9000/- per month.

No other argument has been raised on behalf of the appellants.

Heard learned counsel for the appellants.

Relevant Observations of the Ld. Tribunal in paras 26 and 27 of the impugned Award are reproduced hereinbelow: -

“26. As the deceased was more than 62 years and less than 63 years at the time of his death, in terms of **Smt. Sarla Verma & others versus Delhi Transport Corporation & another (supra)** by applying multiplier of 7 amount of compensation can be calculated as Rs.3,78,000/- (Rs.4500/- x 12 x 7). The claimants are brothers of the deceased. Barkha Ram PW.1 who is one of the claimants stated in cross-examination that he was having one son and one daughter who were minors. Sadhu Ram his elder brother was having two sons and one daughter. One son and one daughter were married and his another son was unmarried and was aged about 22 years. Since claimants are having their own families and having their adult sons also, so it cannot be said that claimants were fully dependent upon the deceased Ram Swarup. Claimants are not entitled for the compensation as calculated above. Keeping in view that deceased was unmarried and residing with the claimants, so the claimants are entitled for some amount as compensation. Under such circumstances, Court is required to make some guess work. Hence, I am of the view that the claimants No.1 and 2 are entitled to Rs.1,00,000/- each as compensation on account of death of deceased Ram Swarup.

27. In view of law laid down by Hon'ble Supreme Court of India in authority **National Insurance Company Limited vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, amount of Rs.15,000/- is awarded to the claimants for loss of estate and Rs.15,000/- on account of funeral expenditure. Thus, compensation payable to claimants No.1 and 2 comes to Rs.2,30,000/- (Rs.2,00,000/- + Rs.15,000/- + Rs. 15,000/-)”.

Ld. Counsel is unable to controvert the above findings of the Ld. Tribunal.

I am in concurrence with the above observations/ findings / calculations of the Ld. Tribunal. In this view of the matter no ground for enhancement of compensation as already awarded by the Tribunal is made out.

Dismissed.

21/02/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No