

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-7677-2017 (O&M)

Date of decision: 27.02.2023

Usha Sharma & Others

...Appellant(s)

Vs.

Gurmail Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ankit Aggarwal, Advocate for
Mr. Pankaj Bali, Advocate for the appellants.

NIDHI GUPTA, J.

CM-25241-CII-2017

This is an application under Section 5 of the Limitation Act for condonation of delay of 404 days in filing the appeal.

No cogent reason has been given in the application for condonation of such extraordinary and inordinate delay of 404 days in filing the appeal.

Present application accordingly stands dismissed.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.40,58,128/- awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as "the learned Tribunal") vide Award dated 29.04.2016 passed in MACP No.191 of 2015 filed under Sections 166 and 140 of the Motor Vehicles Act, 1988

(hereinafter referred to as “the Act”). Claimants are widow and two major daughters of deceased-Satyawan.

2. Learned Tribunal on the basis of pleadings and evidence placed before it concluded that deceased-Satyawan had died due to injuries suffered by him in a motor vehicular accident that took place on 24.04.2015 due to rash and negligent driving of Bolero Maxi milk tanker bearing registration No.HR-64-9458 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1/driver, owned by respondent No.2 and insured by respondent No.3. Learned Tribunal awarded compensation as noted above along with interest @ 9% 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. The sole argument raised on behalf of the appellants is that nothing has been granted to the claimants by way of love and affection.

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

5. I have heard learned counsel for the appellants.

6. a) Perusal of impugned Award shows that as per copy of passport (Exhibit P15) and matriculation examination certificate (Exhibit P17), date of birth of the deceased is mentioned therein as 10.04.1970. Accordingly, learned Tribunal took age of the deceased to be about 45 years (falling in the age group of 41-55 years);

b) On basis of testimony of PW1 Dinesh Kaushik,

Accounts Officer of Kurukshetra Institute of Technology and Management,

Village Bhor Saidan, District Kurukshetra, as well as other documentary evidence on record in the form of salary certificate of the deceased (Exhibit P1), appointment letter (Exhibit P2), joining report (Exhibit P3) and accounts statements (Exhibit P5) and (Exhibit P6), learned Tribunal took income of the deceased as Rs.19,000/- per month. As per testimony of PW2 Usha Sharma/appellant No.1, deceased was also receiving Rs.14,000/- per month from Indian Navy. However, as it was admitted by the said witness that she will continue to receive 50% of the said pension amount being widow of the deceased, accordingly, learned Tribunal took income of the deceased to be Rs.19,000/- + Rs.7,000/- = Rs.26,000/- per month at the time of his death. After deduction of income tax, net income of the deceased was calculated to be Rs.25,639.50/- per month;

c) As the deceased was 45 years of age at the time of death, addition of 30% was made towards future prospects. Thus, Rs.25,639/- + Rs.7,692/- = Rs.33,331/-;

d) Multiplier of 14 was correctly applied Rs.33,331 x 14 = Rs.4,66,634/-;

e) As the claimants are three in number, $\frac{1}{3}^{\text{rd}}$ of income of the deceased was correctly deducted towards personal expenses Rs.4,66,634 – Rs.1,55,544 = Rs.3,11,089/-. Accordingly, annual dependency of the appellants was calculated as Rs.3,11,089/- x 12 = Rs.37,33,128/-;

f) Under conventional heads, learned Tribunal awarded Rs.25,000/- towards transportation; Rs.1,00,000/- to appellant No.1 towards loss of consortium; Rs.1,00,000/- to appellants towards loss of

estate; and Rs.50,000/- each to appellants No.2 and 3 towards loss of love & affection and care & guidance;

g) Accordingly, total compensation was calculated as Rs.40,58,128/-.

7. Needless to say, the above calculations are already in excess of the amounts as permitted under law as 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; and National Insurance Company Limited Vs. Pranay Sethi and Others (2017) 16 SCC 680**. It is also patent that compensation towards love and affection has been granted to the appellants.

8. For the reasons stated above, I find no merit in the present appeal and the same stands, dismissed on merits as well as on grounds of delay.

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

27.02.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No