

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 8421/2017

Date of decision:06/02/2023

Smt. Veena and another

.....Appellants

Vs.

Sham Singh and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sandeep Arora, Advocate for the appellants.

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.4,75,000/- awarded by the learned Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Ld. Tribunal') vide Award dated 11.7.2017 passed in claim petition bearing MACP No. 1232/2016 filed u/s 166 of the Motor Vehicles Act,1988,.

Brief facts of the case are that learned Tribunal on the basis of material and pleadings before it concluded that the deceased Master Vishal @ Akash aged 4 years had died due to injuries suffered by him in a motor vehicular accident that took place on 15.2.2016 due to rash and negligent

driving of Car bearing registration No. PB-08-CP-6168 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3. Claimants/appellants are parents of the deceased Master Vishal @ Akash aged 4 years.

Learned Tribunal in view of the judgment of the Hon'ble Supreme Court in **Lata Wadhwa v State of Bihar, 2001 ACJ 1735** took the notional income of the deceased as Rs.30,000/- per annum and applied the multiplier of 15 and thus calculated the dependency of the claimants to be Rs.4.50 lacs. A further sum of Rs.25,000/- was awarded as funeral expenses. Interest @ 6% per annum from the date of filing of the claim petition till realization was also awarded. Respondents were held jointly and severally liable to pay the compensation.

Learned counsel for the appellants assails the impugned Award only on two grounds; namely, future prospects have not been granted; and rate of interest has been awarded @ 6% per annum only whereas the same should be 8%. It is submitted by the learned counsel for the appellants that the appellants are demanding future prospects of Rs.10 lacs and that the rate of interest should also be at least 8% per annum.

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

In my considered view the learned Tribunal has awarded just and fair compensation in the facts and circumstances of the case and no case for interference is made out. No doubt Chapter-12 of the Motor Vehicles Act, 1988 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. All that has to be determined in the facts of a given case is that the compensation awarded 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 Versus 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.

Dismissed.

06/02/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No