

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO 6054/2018 (O&M)

Date of decision: 19.01.2023

Balwinder Singh and another

.....Appellants

Vs.

Gurmej Singh @ Geja and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. P.K.S.Phoolka, Advocate for the appellants.

Nidhi Gupta, J.

CM 21369-CII/2018

Since there is delay of 174 days in filing the appeal, aforesaid application has been filed seeking condonation of delay. The application is supported by an affidavit of appellant Balwinder Singh.

For the reasons stated in the application, the same is allowed and delay in filing the appeal is condoned.

Main Appeal.

Present appeal has been filed by the claimant nos. 1 and 2 seeking enhancement of compensation of Rs.3,21,110/- granted by the Motor Accident Claims Tribunal, Bathinda vide Award dated 20.7.2017 passed in MAC File No.8 of 17.4.2015 in a petition under Section 166 of the Motor Vehicles Act.

Appellants / Claimants 1 and 2 before the Tribunal, are the sons of the deceased Karnail Singh. Claimants 3 to 6 were four married daughters of deceased Karnail Singh and who were aged 40, 37, 32, and 30 years respectively and each of whom were married and living with their families in their respective matrimonial homes. Present appeal has been filed on behalf of claimants 1 and 2 only, being major sons of deceased Karnail Singh. Ld. Tribunal on the basis of evidence and pleadings placed before it concluded that the deceased had died due to the injuries suffered by him in a roadside motor vehicular accident that took place due to the rash and negligent driving of respondent No. 1, Driver of Tata 407 Canter No. PB – 30E-9597/offending vehicle.

Learned counsel for the appellants/claimants submits that the impugned Award is assailable on two grounds:

It is submitted that the Ld. Tribunal has taken the age of the deceased as 70 years whereas the age of the deceased was 60 years at the time of accident in question. It is submitted that accordingly Tribunal has incorrectly applied the multiplier.

The second contention of the learned counsel is that the learned Tribunal has taken the notional income of the deceased on lower side as only Rs.4500/- per month whereas the deceased was working as farm labourer and even as per minimum wage notification at the relevant time i.e. on 1.10.2012 income of the deceased should have been taken as at least Rs.6000/- per month.

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

Heard Ld. Counsel for the appellants.

The Ld. Tribunal has noticed that though the claimants in their claim petition had stated the age of the deceased to be 60 years, however, the

deceased was shown to be 70 years of age as per the medical record Ex. R1. It has further been recorded by the learned Tribunal that at time of admission of the deceased in the hospital, his age was mentioned as 70 years. Even RW1 Jagpal Singh, Statistical Assistant of Civil Hospital, Bhatinda has recorded the age of the deceased as 70 years. Moreover, nothing has been placed on record by the claimants in support of their claim that the deceased was 60 years old at the time of death.

Further in the claim petition it was averred by the appellants that the deceased was earning Rs.10,000/- per month from his occupation as farm labourer, however, nothing has been produced by the appellants in support of their claim. Moreover, keeping in mind the fact that deceased was 70 years old, it would be unlikely that he would be earning much from his farm work, if any. As such, I am in agreement with the reasoning of the learned Tribunal, that the income of the deceased be taken as Rs.4500/– per month based on another decision taken by the MACT, Bathinda, where in a similar case income of a person of 80 years was taken as Rs.4000/- per month.

In view of the above I find that no ground is made out to interfere with the impugned Award.

Dismissed.

(Nidhi Gupta)
Judge

19.01.2023
Joshi

Whether speaking/reasoned	Yes
Whether reportable	Yes/No