

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.63 of 2018 (O&M)
FAO No.64 of 2018 (O&M)
Date of Decision: 19.07.2023

1. FAO No.63 of 2018 (O&M)

Hemant Kumar ... Appellant

Versus

Om Parkash and Others. ... Respondents

2. FAO No.64 of 2018 (O&M)

Hemant Kumar and others
... Appellants

Versus

Om Parkash and Others. ... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Surinder Gandhi, Advocate for the appellants.

SANJIV BERRY, J. (ORAL)

1. By way of this common order, the above-mentioned two appeals i.e. FAO No.63 of 2018 & FAO No.64 of 2018 shall be disposed of.

2. Briefly stating the facts of the case are that the claimant/appellant No.1 allegedly suffered injuries due to rash and negligent driving of respondent No.1 in a hit and run case by an unknown tractor, wherein his wife succumbed to the injuries. The claimant/appellant No.1

preferred two claim petitions before the learned MACT, Rohtak (hereinafter referred to 'Tribunal' in short), whereby the learned Tribunal vide common order dated 11.08.2017 had awarded ₹1,28,700/- as compensation for the injuries suffered by appellant No.1 and ₹14,33,000/- on account of death of wife of appellant No.1. The appellants herein are claiming enhancement of the amount awarded by the learned MACT, Rohtak.

3. It is contended by the learned counsel for the appellant(s) that the learned Tribunal has awarded inadequate and insufficient compensation on account of attendance charges, special diet, transportation, pain and suffering and permanent disability for the injuries suffered by appellant No.1 and the learned MACT has wrongly considered the dependency of 3 persons whereas it should have been 4 persons in the death case. Therefore, deduction from the monthly income should have been 1/4th instead of 1/3rd in the death case. Further, it is contended by the learned counsel for the appellant that the appellant has incurred an expenditure of ₹5 lac on his treatment but the learned MACT has awarded a meager amount of ₹58,690/- only for the same. Therefore, learned counsel for the appellant(s) prays for modification of the impugned award.

4. Heard.

5. After hearing arguments and perusing the record, it transpires that in a vehicular accident occurred on 14.02.2017 due to rash and negligent driving of vehicle No. HR21H-5336 driven by respondent No.1, appellant No.1 and his wife Shaweta suffered injuries and were taken to the PGIMS Rohtak where Shaweta wife of the appellant No.1 was succumbed to the

injuries and FIR No.71 dated 15.02.2017 under Section 279, 337, 304-A IPC Police Station Sampla was registered. Due to injuries, the appellant No.1 suffered disability to the extent of 10%. Learned Tribunal after perusing the record produced by the appellant No.1 awarded compensation of ₹58,690/- for medicines, ₹10,000/- as attendant charges and ₹10,000/- as special diet and ₹10,000/- as transportation charges and ₹20,000/- for pain and suffering and ₹20,000/- for permanent disability. The learned Tribunal has rightly assessed the compensation awarded to the appellant No.1 on account of treatment, attendant charges, special diet, transportation pain and sufferings and I find no infirmity in the award passed by the learned Tribunal.

6. Furthermore, the learned Tribunal has awarded compensation of ₹14,33,000/- to the claimants after considering the age of deceased as 41 years as per record and assessing her income as ₹9000/-(unskilled labour) and dependency of one third. It is, the sole argument of the learned counsel for the appellants that the learned Tribunal has wrongly taken into consideration the dependency of three persons, whereas, it should have been four persons and the deduction from the monthly income should have been 1/4th of the income. The claim petition was filed by the husband, two minor daughters and mother-in-law of deceased and it was held in the impugned award dated 11.08.2017 that claimant no.4 being mother-in-law of the deceased is not entitled to any compensation and held husband and two minor daughters only entitled for compensation. The appellant No.4 is entitled to file the claim petition, but the fact that she was dependent upon the earnings of the deceased during her lifetime has to be specifically

pleaded and proved by the claimants. In the absence of specific pleadings as well as evidence regarding the dependency of the claimants/appellants on the income/earnings of the deceased, learned MACT should not have ventured into the award amount on account of loss of dependency. Therefore the award has been rightly passed and does not warrant any interference.

7. Keeping in view the above facts and circumstances, this Court is of the considered opinion that both the appeals *sans* merit and are hereby dismissed.

8. A photocopy of this order be placed on the file of connected case.

(SANJIV BERRY)
JUDGE

19.07.2023
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |