IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

243 **FAO-7366-2018 (O&M)**

Date of decision: 15.05.2023

Sher Singh& Others

...Appellant(s)

Vs.

Vinod Kumar & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ashok K. Sharma (Bhana), Advocate for the appellants.

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NIDHI GUPTA, J.

CM-26800-CII-2018

This is an application under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 308 days in filing the appeal.

After going through the contents of the application, the same is allowed subject to all just exceptions.

MAIN APPEAL

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.7,77,000/- granted by Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as "the learned Tribunal") vide Award dated 16.08.2017 passed in MACT Case No.424 of 2017 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). Four claimants are the widower and three minor children of deceased-Rajo Devi.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that

deceased-Rajo Devi had died due to injuries suffered by her in a motor vehicular accident that took place on 16.01.2017 due to rash and negligent driving of bus bearing registration No.HR-57A-7121 (hereinafter referred to as 'the offending vehicle'), being driven by respondent No.1, owned by respondents No.2 & 3 and insured by respondent No.4. Learned Tribunal awarded compensation as above along with interest @ 7% per annum from the date of filing the claim petition till realisation. Respondents were held jointly and severally liable to pay the amount of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation on the ground that deceased was 48 years of age at the time of death and she was running a beauty parlour and was also doing tailoring as also dairy farming from which vocations she was earning Rs.10,000/- per month. It is submitted that however learned Tribunal has taken income of the deceased as only Rs.6,000/- per month.

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

5. I have heard learned counsel for the appellants.

6. Perusal of impugned Award shows that learned Tribunal took age of the deceased as 48 years as mentioned in the claim petition. Though it is the pleaded case of the appellants that the deceased was earning Rs.10,000/- per month from various vocations however, no evidence in this regard was led by the appellants before the learned Tribunal. Accordingly, learned Tribunal had taken the

deceased to be a housewife and had assessed the gratuitous services rendered by the deceased as a housewife in monetary value as Rs.6,000/- per month. Even before this Court, appellants have produced nothing whatsoever in support of their assertion that the deceased was a tailor and was running a beauty parlour and was doing dairy farming. Even name of beauty parlour is not mentioned. Accordingly, there is no ground made out to interfere with the said finding, or assessment of monetary value of gratuitous services, as made by the learned Tribunal.

7. Claimants being 4 in number, learned Tribunal correctly made a deduction of 1/4th towards personal expenses. As deceased was 48 years of age, learned Tribunal correctly applied multiplier of 13. Learned Tribunal further granted a sum of Rs.75,000/- under conventional heads. Thus totalling to a compensation of Rs.7,77,000/-. Learned Tribunal granted compensation in following manner:-

Heads	**Amounts**
Income	Rs.6,000/- per month
Annual income	Rs.6,000/- x 12 = Rs.72,000/-
Deduction (1/4th)	Rs.72,000/- - Rs.18,000/- = Rs.54,000/-
Multiplier (13)	Rs.54,000/- x 13 = Rs.7,02,000/-
Funeral expenses	Rs.25,000/-
Consortium	Rs.50,000/-
Total	**Rs.7,77,000/-**

8. Accordingly, in view of the discussion above, I find no case is made out that merits interference with the impugned Award. I find the compensation awarded to the appellants to be just and fair in the facts and circumstances of the case. No doubt Chapter-12 of the Act 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. Hon'ble Supreme Court in **State of Haryana Vs. Jasbir Kaur, (1999) 1 SCC 90 and Divisional Controller K.S.R.T.C. Vs. Mahadev Shetty, (2003) 7 SCC 197,** has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. Thus, all that has to be determined in the facts of a given case is, that the compensation accorded 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 Vs. 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.

9. In view of the above facts, I find no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed**.

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

15.05.2023 **(Nidhi Gupta)**
Sunena **Judge**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No