

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-3591-2016 (O&M)
Date of decision: 22.02.2023

Suresh Devi & Another

...Appellant(s)

Vs.

Naveen & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:-

Ms. Neha Rana, Advocate for
Mr. R.N. Lohan, Advocate for the appellants.

Mr. J.P. Sharma, Advocate for
respondents No.1 to 3, 5 & 6.

Mr. Punit Jain, Advocate for respondent No.4.

Mr. Dinesh Kumar Prajapati, Advocate for
respondent No.7.

NIDHI GUPTA, J.

CM-12627-CII-2016

This is an application under Section 5 of the Limitation
Act for condonation of delay of 456 days in filing the appeal.

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

MAIN CASE

Present appeal has been filed by the claimants seeking
enhancement of compensation of Rs.6,62,600/- awarded by Motor
Accident Claims Tribunal, Rewari (hereinafter referred to as "the learned
Tribunal") vide Award dated 30.09.2014 passed in MACT Case RT No.89 of

2011 filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as “the Act”). Claimants are wife and minor son of deceased-Sanjay.

2. Learned Tribunal on the basis of pleadings and evidence placed before it concluded that deceased-Sanjay had died due to injuries suffered by him in a motor vehicular accident that took place on 20.06.2010 due to the rash and negligent driving of Eicher tractor-485 bearing registration No.HR-14F-2469 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1/driver, owned by respondents No.2 & 3 and insured by respondent No.4. Respondents were held jointly and severally liable to pay the compensation as noted above along with interest @ 6% per annum from the date of filing the petition till its actual realization.

3. Learned counsels for the respondents inter alia submit that;

a) keeping in view law laid 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**, appellant/claimants are entitled to addition of 40% by way of future prospects as deceased was 34 years of age at the time of death and was working as a labourer;

b) amount of Rs.1,00,000/- granted by way of consortium, as also Rs.25,000/- towards funeral expenses, is on higher side;

c) there is a delay of 456 days in filing present appeal and therefore, claimants/appellants are not entitled to interest for this period of delay.

4. Learned counsel for the appellants submits that the Award deserves to be enhanced as nothing has been granted towards future prospects and even income of the deceased has been taken on lower side.

5. I find merit in the arguments advanced on behalf of the respondents. Accordingly, in view of the above factual and legal position, compensation as admissible to the claimants/appellants is re-worked as follows:-

HEAD	AMOUNT
Monthly income	Rs.4,200/-
40% future prospects	Rs.4,200/- + 1680 = Rs.5,880/-
1/3 rd deduction qua personal expenses being unmarried	5880-1960= 3920
Annual income	3920x12= Rs.47,040/-
Multiplier	16
Loss of dependency after applying multiplier	47,040x16=Rs.7,52,640/-
Loss of consortium	Rs.44,000x2= Rs.88,000/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Total compensation	Rs.8,70,640/-
Compensation granted by learned	Rs.6,62,600/-

Tribunal	
Enhanced amount	Rs.2,08,040/- along with interest @ 6% per annum except the interest on delay of 456 days in filing the present appeal.

6. Ratio of apportionment as well as manner of disbursement of compensation amount, as determined by learned Tribunal is maintained.

7. Present appeal stands disposed of in above terms.

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

22.02.2023
Sunena

(Nidhi Gupta)
Judge

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