

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-300-2020 (O&M)
Date of decision: 22.02.2023

Tej Kaur & Others

...Appellant(s)

Vs.

Mohan Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Tejinder Pal Singh, Advocate for the appellants.

NIDHI GUPTA, J.

CM-293-CII-2020

This is an application under Section 5 of the Limitation Act for condonation of delay of 615 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.6,64,000/- awarded by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as "the learned Tribunal") vide Award dated 06.12.2017 passed in MACT Case No.35 of 05.10.2016 filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as "the Act"). Claimants are wife and two major sons of deceased-Roop Singh.

2. Learned Tribunal on the basis of pleadings and evidence placed before it concluded that deceased-Roop Singh had died due to injuries suffered by him in a motor vehicular accident that took place on

29.06.2016 due to the rash and negligent driving of auto bearing registration No.PB-65AD-4695 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1/driver, owned by respondent No.2 and insured by respondent No.3. Learned Tribunal awarded compensation as noted above along with interest @ 7% per annum from the date of filing the petition till its actual realization.

3. Learned counsel for the appellants seeks enhancement of compensation inter alia on the ground;

a) that income of the deceased has been taken only Rs.7,500/- per month on the basis of Minimum Wage notification of relevant time, whereas the same ought to have been taken as per Deputy Commissioner rates prevalent at the relevant time. It is further submitted that deceased had income from agriculture which has not been considered by learned Tribunal while calculating compensation;

b) that nothing has been granted by way of consortium to the claimants/appellants No.2 and 3.

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

5. I have heard learned counsel for the appellants.

6. Perusal of Award shows that learned Tribunal computed the compensation payable to the appellants in the following manner:

a) On the basis of driving licence (Exhibit P4) wherein date of birth of the deceased is shown as 08.09.1957, age of the deceased was determined as 59 years at the time of accident. On the basis of

judgment of Hon'ble Supreme Court in case of **Sarla Verma Vs. Delhi Transport Corporation (2009) AIR (SC) 3104** multiplier of 9 was applied;

b) It has been alleged by the appellants that deceased was a truck driver and an agriculturist, however, as no evidence was led by them in support of their said contention, learned Tribunal took income of the deceased as Rs.7,500/- per month on the basis of Minimum Wage notification;

c) 10% was added towards future prospects;

d) As claimants were four in number deduction of 1/3rd was made towards personal and living expenses;

e) Accordingly, total dependency inclusive of future prospects of 10% was calculated to be Rs.5,94,000/-;

f) In view of judgment of Hon'ble Supreme Court in case of **National Insurance Company Limited Vs. Pranay Sethi and Others (2017) 16 SCC 680**, Rs.15,000/- was granted towards loss of estate; Rs.15,000/- towards funeral expenses; and Rs.40,000/- was granted to claimant/appellant No.1 herein being widow of the deceased. In this manner, total compensation of Rs. 6,64,000/- along with interest @ 7% was awarded to all the claimants in equal share.

7. In my view, there is no error whatsoever in the compensation as awarded by learned Tribunal as, as per judgments of this Court in **Harpal Kaur & Others Vs. Sita Ram & Others, Law Finder Doc Id # 921104; Narender Nayyar Vs. Sheodan Singh & Others, Law Finder Doc Id # 626136** and **Sajna Devi & Others Vs. Vijender Kumar & Others, Law**

Finder Doc Id # 921100, it has been held that major sons are not entitled to any consortium/compensation. No case law to the contrary has been cited before this Court by learned counsel for the appellants.

8. 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 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 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.

9. Accordingly, present appeal stands, dismissed.

10. 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