

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

**CM No.6627-CII/2023 in/and
FAO 15989/2018 (O&M)
Date of decision: 20.04.2023**

Kishori Bai and another

.....Appellants

Vs.

Narinder Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Gurinderjit Singh, Advocate for the applicant/appellants

Nidhi Gupta, J.

CM No.6627-CII/2023

Prayer in the aforesaid application u/O 41 Rule 19 r/w Section 151 CPC is for restoration of the main appeal, which was dismissed for non-prosecution on 9.3.2023. It is averred therein that counsel for the appellant failed to note the correct date of hearing and as such could not appear on 9.3.2023 when the appeal was listed. The application is supported by an affidavit of the counsel.

For the reasons stated in the application, the same is allowed, order dated 9.3.2023 is recalled and the appeal is taken on Board and restored to its original number.

Main Case

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.3.97 lakhs granted by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide Award dated 11.7.2018 passed in MACP/365/2017 filed u/s 166 of the

Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'). The two Claimants are the widow and 30-year old major son of deceased Shanu Ram.

Ld. Tribunal on the basis of pleadings and evidence on record held that the deceased Shanu Ram died of injuries received by him in a motor a vehicular accident that took place on 17.8.2016 due to rash and negligent driving of Canter bearing registration No. PB-02-CC-9975 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3. The Tribunal awarded compensation as above along with interest @ 7% per annum from the date of filing of the claim petition till realization. Liability to pay the compensation was joint and several.

The only ground on which the Id. Counsel for the appellants seeks enhancement is that interest @ 7% awarded by the Tribunal is on lower side and should be 12%.

No other argument has been raised.

Heard Id. Counsel.

In my view the interest @ 7% as awarded by the Id. Tribunal is just and proper, and does not call for interference of this Court. 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. 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.

Dismissed.

(Nidhi Gupta)
Judge

20.04.2023
Joshi

Whether speaking/reasoned	Yes
Whether reportable	Yes/No