

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
252 **FAO-10712-2018 (O&M)**
Date of decision: 15.05.2023

Smt. Sunita @ Sunita Devi & Others

...Appellant(s)

Vs.

Labh Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sumit Gupta, Advocate
for the appellants.

NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.8,58,484/- granted by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as "the learned Tribunal") vide Award dated 29.08.2018 passed in MACT Case No.118 of 2017 filed under Sections 166 & 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). Four claimants are the widow, two major sons and mother of deceased-Rishi Ram.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that deceased-Rishi Ram had died due to injuries suffered by him in a motor vehicular accident that took place on 15.03.2017 due to rash and negligent driving of car bearing registration No.HR-05AF-4047 (hereinafter referred to as 'the offending vehicle'), being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. Learned Tribunal awarded compensation as above along with

interest @ 6% 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 inter alia on the grounds:

a) that nothing has been awarded by learned Tribunal towards loss of estate;

b) that deduction of 1/3rd has been made towards personal expenses whereas claimants being 4 in number, deduction of 1/4th ought to have been made;

c) that interest has been granted @ 6% per annum which should be 18% per annum.

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

5. I have heard learned counsel for the appellants.

6. Perusal of record of the case shows that learned Tribunal took age of the deceased as 52 years as mentioned in the claim petition, as also on the basis of post-mortem report of the deceased (Exhibit P11) wherein his age has been stated to be 52 years.

7. Though it was the pleaded case of the appellants before the learned Tribunal that deceased was earning Rs.20,000/- per month, however, as no cogent and convincing evidence was led by the claimants in this regard, learned Tribunal took notional income of the deceased as Rs.8,300/- per month. As the deceased was 52 years of age

at the time of death, learned Tribunal made an addition of 10% towards future prospects.

8. It is not in dispute that claimants No.2 and 3 are the major sons of the deceased aged 24 and 26 years respectively. Admittedly, no evidence has been led by the appellants even before the learned Tribunal or before this Court to prove the pecuniary dependence of the said claimants on income of the deceased. As per law laid down by Hon'ble Supreme Court in **(SC) SLP No.13931 of 2017 titled as "New India Assurance Co. Ltd. Vs. Vinish Jain & Others"** and by this Court in **(P&H) 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 of the deceased or not entitled to compensation. Accordingly, learned Tribunal was right in holding that only claimant No.1/widow of the deceased and claimant No.4/mother of the deceased were the only dependents on the income of the deceased, and therefore, correctly made deduction of 1/3rd towards personal expenses.

9. As deceased was 52 years of age at the time of death, learned Tribunal correctly applied multiplier of 11 in accordance with **Sarla Verma Vs. Delhi Transport Corporation (2009) AIR (SC) 3104**. There is no doubt that the learned Tribunal has granted Rs.55,000/-under conventional heads and an amount of Rs.15,000/- more was required to be paid towards loss of estate. However, as has been held by Hon'ble

Supreme Court in **Vinish Jain (supra)**, where the difference in compensation is within the permissible limits, i.e. between 4% to 5%, no interference in the impugned Award is called for. No judgment to the contrary has been cited by learned counsel for the appellants.

10. Compensation in tabular form granted by learned Tribunal is as follows: -

Heads	Amounts
Income	Rs.8,300/- per month
Future prospects (10%)	Rs.8,300/- + Rs.830/- = Rs.9,130/-
Deduction (1/3 rd)	Rs.9,130/- - Rs.3,043/- = Rs.6,087/-
Annual income	Rs.6,087/- x 12 = Rs.73,044/-
Multiplier (11)	Rs.73,044/- x 11 = Rs.8,03,484/-
Funeral & transportation expenses etc.	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Total	Rs.8,58,484/-

11. 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.

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

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

15.05.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No