

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****FAO 839/2020 (O&M)****Date of decision: 09.05.2023.****Ranbir Singh and others****.....Appellants****Vs.****Mahesh Chand and others****.....Respondents****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. SK Rana, Advocate for the appellants.****Nidhi Gupta, J.****CM 1890-CII/2020**

1. Since there is delay of 302 days in refiling the appeal aforesaid application has been filed u/s 151 Code of Civil Procedure, 1908 seeking condonation of said delay.
2. For the reasons stated in the application, the same is allowed and delay in refiling the appeal is condoned.

MAIN CASE.

3. Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.17,69,400/- granted by the Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') vide Award dated 28.8.2018 passed in MACT Case No.65/2017 filed u/s 166/140 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'). Claimants are husband and three minor children of deceased Mrs. Meena, who was aged about 39 years at the time of her death.

4. Ld. Tribunal on appraisal of facts, pleadings and evidence on record held that the deceased had died due to injuries suffered by her in motor vehicular accident that took place on 19.1.2017 at about 2 pm due to rash and negligent driving of Maruti Swift Car bearing registration No. HR-29-AK-4006 (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 @ 7.5% per annum from the date of filing of the claim petition till realization. Respondents were jointly and severally held liable to pay the compensation.

5. The singular ground on which the Id. Counsel for the claimants seeks enhancement is that nothing has been granted by way of consortium to the claimants. It is submitted that claimants were entitled to 40,000/- each towards loss of consortium.

6. No other argument has been raised.

7. Heard Id. Counsel.

8. Perusal of the record of the case shows that it was pleaded case of the appellants before the Ld. Tribunal that the deceased was working as Peon and earning Rs.9200/- per month. As Claimants were able to prove the said employment of the deceased, Ld. Tribunal took income of the deceased as Rs.9200/- p.m. As the deceased was 39 years of age at the time of her death, Ld. Tribunal made an addition of 30% towards future prospects thus, calculating monthly income of the deceased as Rs.9,200+ Rs.2,760/- = Rs.11,960/- p.m. As the claimants are four in number Ld. Tribunal made a deduction of 1/4th towards personal expenses, thus taking the monthly income of the deceased as Rs.8970/- and annual income as Rs.1,07,640/-. Ld. Tribunal further correctly applied multiplier of 15, thus calculating total loss of dependency at Rs.16,14,600/-. Ld.

Tribunal further granted a sum of Rs.84,800/- towards medical bills/expenses. Under the conventional heads, Ld. Tribunal granted Rs.70,000/-. Thus, learned Tribunal granted a total compensation of Rs.17,69,400/-.

9. Therefore, argument on behalf of the appellants that nothing has been granted by way of consortium is, on the face of it, incorrect. Ld. Tribunal has granted Rs.70,000/- under the conventional heads i.e. Rs.15,000/- towards loss of estate; Rs.15,000/- towards funeral expenses and Rs.40,000/- towards loss of consortium, which is as per latest judgment of the Hon'ble Supreme Court in **Shri Ram General Insurance Company Limited v Bhagat Singh Rawat & others, C.A.No.2410-2412/2023**, where in it has been held that a total sum of Rs.70,000/- can be granted under the conventional heads, and claimants are entitled to Rs.40,000/- in toto as consortium. No judgment to the contrary has been shown by the Id. Counsel for the appellants.

10. 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, 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.

11. Dismissed.
12. Pending Application(s),if any, also stand disposed of.

(Nidhi Gupta)
Judge

09.05.2023
Joshi

Whether speaking/reasoned	Yes
Whether reportable	Yes/No