



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

229

FAO-2997-2023 (O&M)

Date of decision: 10.01.2025

Sunita and Others

...Appellant(s)

Vs.

Shoib Khan and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rinki K. Singhania, Advocate for the appellants.

Mr. Suman Jain, Advocate with
Mr. Shubham Jain, Advocate
for the respondent-Insurance Company.

NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.16,45,000/- granted by the Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as "the learned Tribunal") vide Award dated 09.11.2022 passed in MACT Case No.384 dated 20.12.2019 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). The 4 claimants are the: i) widow; ii) 19-year-old daughter; iii) 17-year-old son; and iv) 68-year-old mother of the deceased Devender Kumar, who is stated to be 43 years old at the time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it, concluded that deceased-Devender Kumar had died in a motor vehicular accident that



took place on 17.07.2019 due to the rash and negligent driving of Bolero Car bearing registration No.UP-12AK/3904 (hereinafter referred to as 'the offending vehicle'), being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3 herein. Learned Tribunal awarded compensation as above along with interest @ 6% per annum from the date of filing the claim petition till actual realisation. Out of the total amount of compensation, a sum of Rs.40,000/- was ordered to be paid to the claimant No.1-widow on account of loss of consortium and the remaining amount of compensation was ordered to be shared equally by all the claimants.

3. Learned counsel for the claimants seeks enhancement of compensation on the ground that the learned Tribunal had failed to appreciate that the deceased was earning Rs.30,000/- p.m. it is submitted that the deceased was running a hotel/Dhaba from which he was getting income of ₹30,000/- per month. In support, the claimants had led cogent evidence. Yet, income of the deceased was incorrectly taken as Rs.10,000/-p.m.

4. It is further submitted that only spousal consortium of Rs.40,000/- has been awarded to the claimant/appellant No.1-widow; and no parental or filial compensation has been awarded to the other claimants/appellants being minor children and mother of the deceased. It is accordingly prayed that the compensation awarded to the appellants be enhanced.



5. Per contra, learned counsel for respondent No.3-Insurance Company opposes the prayer made on behalf of the appellants and submits that no evidence was led by the appellants to show that the deceased was earning Rs.30,000/- p.m. Even no income tax returns had been placed on record to prove the income of the deceased. As such, compensation has been rightly computed.

5. No other argument is raised on behalf of the parties.

6. I have heard learned counsel for the parties.

7. Perusal of the impugned award shows that the learned Tribunal on appraisal of the material placed before it came to conclusion that Devender Kumar had died due to the injuries sustained by him in an accident that took place on 17.07.2019 due to the rash and negligent driving of the offending vehicle by respondent No.1.

8. It has been argued on behalf of the appellants that the learned Tribunal has wrongly assessed income of the deceased as only Rs.10,000/- per month; whereas the deceased was running a Hotel/Dhaba from which he was earning Rs.30,000/-p.m. I find merit in the said submission made on behalf of the appellants as a perusal of the record reveals that the said hotel/Dhaba was situated on a busy road near Bharat Petrol Pump, Bahora Kalan, Pataudi Road, Gurgaon. In respect of the said hotel/Dhaba, the deceased had executed a rent deed (Ex.P3) for which he was paying ₹10,000/- per month as rented. The said rent deed was for the period 01.05.2019 till 31.03.2020 and was duly



proved on record by PW2 Jai Bhagwan. As such, on the face of it, it could not have been held that the deceased was earning only Rs.10,000/- p.m.

Moreover, there is other oral and documentary evidence on record in particular that of PW3 Amit, who tendered his affidavit Ex.PW3/A wherein he had testified that he was working as Cook in the Hotel of the deceased; and that the deceased used to pay him a monthly salary of Rs.10,000/-p.m.; and that the deceased was earning Rs.30,000/- p.m. From these facts, it would appear that the learned Tribunal has taken the income of the deceased on the lower side. However, it is also to be borne in mind that there is no documentary proof in the form of Income Tax Return etc. on record to show that the deceased was earning Rs.30,000/- p.m. As such, it is my considered view that it would serve the ends of justice if the income of the deceased is taken as Rs.20,000/-p.m.

9. Further, it is undisputed on record that the deceased was 43 years old at the time of accident and was self employed. As such the learned Tribunal has correctly granted future prospects @ 25%; and has correctly applied multiplier of 14. As the claimants were 4 in number, deduction of 1/4th has also been correctly made. Besides the above, Rs.15,000/- has been granted by way of loss of estate; and Rs.15,000/- as funeral expenses.

10. However, only spousal consortium of Rs.40,000/- has been awarded to the claimant/appellant No.1-widow. Admittedly, the remaining 3 claimants are the 2 children and mother of the deceased.



As such, they are entitled to filial and parental consortium of Rs.40,000/- each.

11. Keeping in view the above discussion, the present appeal is **allowed**; and the compensation awarded to the claimants/appellants is re-worked as follows: -

Details	Before the Tribunal	Revised compensation
Income	Rs.10,000/- p.m.	Rs.20,000/- p.m.
Deduction	1/4 th	1/4 th
Future prospects	25%	25%
Multiplier	14	14
Loss of estate	Rs.15,000/-	Rs.15,000/-
Funeral expenses	Rs.15,000/-	Rs.15,000/-
Loss of consortium/ love & affection	Rs.40,000/-	Rs.40,000/- x 4 = Rs.1,60,000/-
Total compensation	Rs.16,45,000/-	Rs.33,40,000/-
Interest	6% per annum	9% per annum
Enhanced amount	Rs.16,95,000/-	

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

10.01.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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