

**FAO-5201-2024(O&M)****-1-****275****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****FAO-5201-2024(O&M)****Date of Order:-29.01.2025**

Ishwar Singh and another

...Appellants

Versus

Bimla Devi

...Respondent

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL**Present** :- Mr. Rupinder Singh, Advocate
for the appellants.

SUVIR SEHGAL, J.(ORAL)**CM-19621-CII-2024**

1. For the reasons given in the application, it is allowed.
2. Delay of 25 days in filing of the appeal is condoned.

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3. Instant appeal has been filed under the Motor Vehicles Act, 1988 (for short 'the Act') by the driver and owner of the offending vehicle assailing award dated 03.07.2024 passed by Motor Accident Claims Tribunal, Rewari (for short – 'the Tribunal').
4. Facts are not in dispute. On 27.09.2020, deceased Rohtash was riding his motorcycle and when he reached near Ganesh Dharamkanta, a pick-up vehicle bearing No.HR-63C-6755 driven by appellant No.2 hit the motorcycle due to which he fell down and sustained serious injuries on the head, resulting in his death. The driver of the offending vehicle fled from the spot. FIR No.268 dated



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27.09.2020 was lodged for offences under Sections 279, 304-A IPC at Police Station, Kosli. A claim petition was filed before the Tribunal by the widow of the deceased. After contest, the Tribunal arrived at the conclusion that the claimant/respondent was dependent upon the deceased and that Rohtash Singh expired as a result of the rash driving of pick-up vehicle owned by appellant No.1 and driven by appellant No.2. Taking into account the age and income of the deceased as well as the dependency of the claimant, loss caused to her was assessed at Rs.20,01,748/- payable jointly and severally by the appellants along with interest @ 7% per annum from the date of filing of the claim petition.

5. Placing reliance upon Ex.RW2/C and Ex.RW2/B, counsel for the appellants has argued that as the vehicle had been sold vide agreement dated 27.07.2020 to appellant No.2, liability could not have been fastened upon appellant No.1. Counsel submits that the vehicle was never involved in the accident and Tribunal has erred in awarding a huge amount of compensation without any evidence by the claimant.

6. I have heard the counsel for the appellants and considered his submissions.

7. The accident had been witnessed by Ishwar Singh, who stepped into the witness-box as PW1. Ishwar Singh is the son of the deceased and has given a detailed account of the unfortunate incident. He identified the driver of the offending vehicle as he was known to him. Ishwar Singh is the natural witness and despite lengthy cross-examination, his testimony could not be shaken. Postmortem report Ex.PW1/G shows that the death was a result of injuries sustained by



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Rohtash in a vehicular accident. An FIR regarding the incident was promptly registered on the same day in which, appellant No.2 has been named as an accused. The offending vehicle recovered by the police has been released on superdari to its owner – appellant No.1. Although it has been argued that appellant No.1 had sold the vehicle through an agreement and power of attorney Ex.RW2/C and Ex.RW2/B to appellant No.2, but during cross-examination appellant No.1 has admitted that the registration of the vehicle was never transferred and stands in his name. Being a registered owner of the vehicle, appellant No.1 cannot escape from his liability of payment of compensation on account of the accidental death of Rohtash. Appellant No.2 failed to produce his driving licence nor have the appellants lead any evidence to establish that the vehicle was insured. This Court is, therefore, of the view that the Tribunal is right in coming to the conclusion that the accident was caused due to rash and negligent driving of appellant No.2 and both the appellants cannot escape from their liability of compensating the legal representative of the deceased. In **Ravi Versus Badrinarayan and others, (2011) 4 SCC 693**, Hon'ble Supreme Court has observed that lodging of FIR certainly proves the factum of the accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In the instant case, FIR has been lodged on the day of the accident and goes a long way in establishing the assertion of the claimant regarding the death of Rohtash in a motor accident is genuine.

8. Insofar as the quantum of compensation is concerned, it has come in evidence that the deceased, who was 49 years of age, was



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getting a pension of Rs.19,050/- per month and he had retired as a Constable in the police department. After making an addition of 30% for future income and deducting 50% for his personal expenses, Tribunal applied a multiplier of 13 and arrived at the compensation amount. Tribunal has placed reliance upon the judgments of the Hon'ble Supreme Court in *Helen C. Rebello Versus Maharashtra State Road Transport Corporation and another, (1999) 1 SCC 90* and *Sebastiani Lakra and others Versus National Insurance Company Ltd. and another (2019) 17 SCC 465* wherein it has been held that deductions cannot be allowed from the amount of compensation either on account of insurance or on account of pensionary benefits or gratuity etc. Compensation figure has been arrived at on the basis of the dictum of the Hon'ble Supreme Court, does not require any reduction.

9. Finding no merit in the appeal, it is dismissed with no order as to costs.

10. Pending miscellaneous application(s), if any, stand disposed off.

(SUVIR SEHGAL)
JUDGE

29.01.2025

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No