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

FAO-5784-2024(O&M)

Date of Order:-23.01.2025

Brumdeep Singh Sidhu

...Appellant

Versus

Balvir Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present :- Mr. G.S. Ghumman, Advocate
for the appellant.

Mr. Ishaan Thakur, Advocate for
Mr. L.S. Sidhu, Advocate for
caveators/respondents No.1 to 7.

SUVIR SEHGAL, J.(ORAL)

1. This is an appeal filed under the Motor Vehicles Act, 1988 (for short 'the Act') by the owner of the offending vehicle assailing award dated 06.09.2024 passed by Motor Accident Claims Tribunal, Moga (for short – 'the Tribunal').

2. Factual position is not in dispute. On 29.10.2023 Ram Chand – deceased, who was riding a bicycle was going to his house and his son Balvir Singh, one of the claimants was following him. A tractor, which was coming from the opposite direction at a high speed hit the bicycle of Ram Chand, who fell on the road and died at the spot. FIR No.229 dated 29.10.2023 was lodged under Section 304-A, 279, 427 IPC by Balvir Singh. Claimants - respondents No.1 to 7, who are the sons and daughters of the deceased filed a claim petition before the



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Tribunal. After contest, the Tribunal arrived at the conclusion that the claimants were dependent upon the deceased and that Ram Chand died due to rash and negligent driving of the tractor, owned by the appellant. Taking into account the age and income of the deceased, the dependency of the claimants, loss caused to them was assessed at Rs.8,04,000/- and the liability to pay the amount was fastened on the appellant and the driver of the offending vehicle jointly and severally along with interest @ 7.5% per annum from the date of filing of the claim petition.

3. Mr. G.S. Ghumman, counsel for the appellant has argued that accident, as alleged, never took place and the claimants have failed to lead any evidence regarding the income of the deceased. He urges that the deceased was 85 years of age and as claimants are not dependent upon him, they are not entitled to grant of compensation.

4. On advance notice, counsel for caveators – respondents No.1 to 7 has appeared and opposed the appeal. He has supported the award passed by the Tribunal.

5. I have heard the counsel for the parties and considered their respective submissions.

6. Ram Chand – deceased was going on a bicycle and Balvir Singh was following him. Balvir Singh is, therefore the most natural eye-witness and he has stepped into the witness-box as CW1 and narrated the manner in which the accident took place. He has deposed that when his father turned his bicycle towards Gurusagar Gate, the offending tractor trolley, which was red in colour, came from the opposite side. It was being driven by a Hindu gentleman at a high speed and struck the bicycle of their father, who fell on the road and the rear



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tyre of the trolley ran over him. Ram Chand died on the spot. The tractor driver met them and identified himself as Jora Singh and admitted his error, but when a crowd gathered, he fled from the spot leaving the offending vehicle behind. Balvir Singh took the dead body to a civil hospital and lodged the FIR against the driver. This witness has been extensively cross-examined, however, his testimony could not be shaken. FIR has been registered on account of the accident as well as death, which is an indicator that an accident had taken place. It has been held by the Hon'ble Supreme Court in *Ravi Versus Badrinarayan and others, (2011) 4 SCC 693* that the lodging of a criminal case proves the factum of the accident and delay, if any, cannot be a ground for rejecting the claim petition. In the present case, the criminal case has been registered on the day of the accident, so there can be no doubt about the factum of the unfortunate incident. No evidence to the contrary whatsoever has been led by the respondents to disprove the version of the claimants. This Court, therefore, affirms the finding recorded by the Tribunal under issue No.1 that the accident had taken place due to the rash and negligent driving of Jora Singh.

7. Claimants have led evidence to the effect that the deceased was 85 years of age at the time of his death and he was doing labour work. It has been claimed that he was earning Rs.10,000/- per month and the claimants, who are Class I heirs are entitled to compensation on account of his death. It is not in dispute that claimants are the children of the deceased, and all of them have attained the age of majority. Claimants have led ocular evidence to the effect that the deceased was working as a Sewadar in Gurudwara Nanaksar and earning Rs.10,000/-



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per month, although no documentary evidence has been produced to support this assertion. On the basis of the minimum rate of daily wage payable to unskilled labour, which has been notified by the Government of Punjab w.e.f. 01.09.2023. Tribunal assessed the income of the deceased at Rs.10,736.75 and rounded it off Rs.10,800/-. The Tribunal applied a multiplier of five and while denying any addition for future prospects, deducted 1/3rd of the income for his personal expenses. The Tribunal arrived at a compensation figure of Rs.8,04,000/-, which was held payable to the claimants.

8. In **Ramachandrappa Versus Manager, Royal Sundram Alliance Insurance Company Limited (2011) 13 SCC 236**, while dealing with the case of an accident in 2017, Hon'ble Supreme Court has held that the minimum notional income is to be reckoned as Rs.11,000/- where the deceased was 94 years of age. High Court of Kerala in **The New India Assurance Company Limited Versus Gopinathan K.K. and others, 2023 ACJ 2117** declined grant of future prospects. Upholding grant of compensation under the head loss of consortium, Kerala High Court held that whatever be the age of the father or the children, their relationship continues till the end and for every father, his offspring are always children. Even if the claimants have attained majority, are earning and the daughters are married. Premature death of their father/mother in a road accident, entitles them to grant of consortium. A coordinate bench of this Court in **HDFC ERGO General Insurance Company Limited Versus Ram Rati and others, Law Finder Doc. ID # 2485266** has held that married daughters get support from their father as and when required. Even after marriage,



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daughters receive gifts from their parents from time to time and it cannot be said that once the daughters are married, they are no longer dependent upon their parents.

9. In *National Insurance Company Limited Versus Birender and others (2020) 11 SCC 356*, Hon'ble Supreme Court has held that major married son, who is earning and not fully dependent upon the deceased is covered under the expression "legal representative" of the deceased under Section 166 of the Act and liability to pay compensation under the Act does not cease because of the absence of dependency of the legal representative concerned. A legal representative of the deceased has a right to apply for compensation even if there is no loss of dependency.

10. In view of the settled legal position, this Court is of the view that claimants, who are children of the deceased and are working/married are entitled to receive compensation on account of the untimely death of Ram Chand in a motor accident. There is no error or infirmity in the findings recorded by the Tribunal, which are affirmed.

11. Appeal being devoid of merit is dismissed with no order as to costs.

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

(SUVIR SEHGAL)
JUDGE

23.01.2025

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No