

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

FAO-1635 of 1997 (O&M)

Date of decision : 15.07.2015

Ram Dia

.....Appellant

Vs.

Inderjit Singh @ Inder Singh Ahluwalia and Ors.

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAMENDRA JAIN

Present:- Mr.R.K.Rana, Advocate for the Appellant.

**Mr.Neeraj Khanna, Advocate
for respondent-Insurance Company.**

RAMENDRA JAIN, J.,(Oral)

CM No.4310-CII of 2015

Learned counsel for the applicant/appellant prays that he may allowed to withdraw the present application.

Accordingly, the present application is dismissed as withdrawn.

FAO-1635 of 1997

Brief facts, relevant for the decision of this case, are that on 29.04.1990 deceased-Lachhu Ram, Barjinder Singh and Narinder Singh had gone to Ambala in car bearing registration No.DDB-3148 owned by one Satnam Singh Kler. After completion of their work, they were returning back to Patiala.

The car was driven by Narinder Singh. Deceased- Lachhu Ram was sitting on the front seat, whereas, Barjinder Singh on the rear seat. Around 2:00 am, when they reached near Mehmoodpur Barrier, a truck-trailor bearing registration No.GH-01/T-6087 was found standing on the left side occupying half of the road portion. Narinder Singh could not see the said truck trailer in the sharp lights coming from the front side as there was no tail lights on it. He tried to steer his car away from the long trailer and also applied breaks to avoid the accident, but since the distance was very short, so his car hit the back portion of said truck trailer. Due to that impact, Lachhu Ram and Narinder Singh received multiple injuries. They were taken to A.P.Jain Hospital, Rajpura and then to Rajendra Hospital, Patiala, by Barjinder Singh. Lachhu Ram succumbed to his injuries, whereas Narinder Singh received injuries including a fracture of mandilla. Their car had also damaged. The incident had taken place due to the negligent parking of the said truck trailer without any tail light. Had there been tail or parking lights on the said truck trailer, the accident could not have taken place. A DDR No.28 was got registered in P.S.Sadar, Rajpura. On 30.04.1990 qua this incident.

Ram Dia father of Lachhu Ram filed claim petition, MACT case No.75T of 03.05.1991 claiming compensation against the death of his son Lachhu Ram, whereas Satnam Singh Kaler had filed MACT case No.66T of 03.05.1991 claiming

compensation against the damage to his car. Narinder Singh had filed claim petition MACT case No.67T of 03.05.1991 for the injuries sustained by him.

The parties led evidence to their satisfaction. Learned Tribunal dismissed the claim petition of Ram Dia-father of deceased-Lachhu Ram, on two counts:-

I. It was bad on account of mis-joinder of necessary parties as mother of the deceased though alive was not impleaded as party.

II. Ram Dia being father was Class-II heir of the deceased-Lachhu Ram and thus was not competent to file the claim petition in the presence of his mother as Class-I heir.

The claim petition filed by Satnam Singh Kler, claiming compensation against the damage to his car was also dismissed, while accepting the claim of Narinder Singh granted compensation to the claimant-Narinder Singh to the tune of Rs.15,000/- along with interest @ 12% from the date of filing the claim petition till the date of its realization vide impugned award dated 08.05.1997.

Aggrieved with the same, Ram Dia filed FAO-1635 of 1997. During the pendency of the appeal an application was filed by Debo as mother and Class-I heir of the deceased under Order 1 Rule 10 read with Order 22 Rule 4 and Section of 151 CPC to implead her as claimant/appellant, which was accepted. Consequently, the case was sent to learned Tribunal to record a finding as to the amount of compensation to which the

claimant-Debo would be entitled against the death of Lachhu and to submit its report within three months with a direction to the parties to appear before the learned Tribunal. Thereafter, learned Tribunal, Patiala after taking into consideration the pleadings of the parties, issues and evidence, submitted its report dated 19.08.1999 to the effect that the claimant Debo and Ram Dia were entitled to compensation of Rs.1,20,000/-, from the respondent jointly and severally.

After receiving the said report, the matter was taken up in Lok Adalat, but could not be compromised. Therefore, vide order dated 03.02.2012, the present FAO was ordered to be listed along with FAO No.1637 of 1997. However, learned counsel for the appellant states that the same was dismissed in default on 02.05.2014 and has not been got restored by any one.

During the pendency of appeal, Ram Dia also expired. Hence, his wife-Debo and daughter-Palo filed CM No.17544-CII of 2014 under Order 22 Rule 3 read with Section 151 CPC to bring them as his LRs, besides, CM No.17543-CII of 2014 for condonation of delay of 82 days in filing the application for restoration of the appeal and CM No.17545-CII of 2014 for restoration of the main appeal dismissed for want of prosecution vide order dated 02.05.2014. All the aforesaid civil miscellaneous applications were allowed vide order dated 23.09.2014 by the Coordinate Bench.

I have heard learned counsel for the parties and gone through the case file carefully.

Learned counsel for the appellant argued that the learned Tribunal in its impugned report dated 19.08.1999, has not awarded any compensation qua love and affection. It has also wrongly applied multiplier of 10 instead of 17. In support of his arguments he has placed reliance of the judgment of Hon'ble Supreme Court in case of **Rajesh and Others Vs. Rajbir Singh and Others 2013 (9) SCC 54** and **Vimal Kanwar and Others Vs. Kishore Dan and Others (2013) 7 SCC 476,**

On the other hand learned counsel for the respondent-Insurance Company-respondent No.3 refuted the aforesaid submissions, by submitting that the compensation so assessed by the learned Tribunal in the impugned report is already on higher side.

A perusal of the record shows that at the time of death deceased-Lachhu was unmarried and aged around 16 years, thus, the fact cannot be lost sight of that he might have been got married in near future may be within 4-5 years, but for his untimely death. Hence, after his marriage, he would not have been in a position to contribute much towards his parents, because of his wife and family. Admittedly, Lachhu Ram died around 25 years ago. The learned Tribunal in its report dated 19.08.1999 held the claimant-Debo and her husband Ram Dia

entitled to compensation of Rs.1,20,000/-. Applicant Palo-sister of the deceased is already married. Hence, from any angle, she cannot be treated as dependent upon deceased-Lachhu. Ram Dia-father of deceased-Lachhu Ram has also expired. The only claimant-Debo remains alive as dependent of the deceased-Lachhu being his real mother. In the fitness of things, the half share of total compensation of Rs.1,20,000/- which had to be disbursed to the deceased-Ram Dia, had he been alive, is hereby ordered to be paid to claimant Debo @ Deban towards love and affection, consortium etc.

Since the only sole surviving legal representative Debo @ Deban, mother of the deceased-Lachhu Ram by also giving half share of her deceased-husband Ram Dia towards love and affection, consortium etc. has been sufficiently compensated, therefore, the ratio laid down in **2013(9) SCC 54** (Supra) relied upon by learned counsel for the appellant has been taken care of.

The learned Tribunal has rightly applied the multiplier of 10, because as discussed above, the deceased-Lachhu Ram was unmarried having no liability, whereas, in **(2013) 7 SCC 476** (supra) the deceased was a government servant and had left three dependents. Hence, the said authority being distinguishable from the facts of the present case has no application.

In view of the discussion above, while accepting the

report of the learned Tribunal dated 19.08.1999 in toto, I grant compensation to the tune of Rs.1,20,000/- to the claimant-Debo @ Deban alongwith interest @ 7% per annum from the date of filing of the claim petition by deceased-Ram Dia i.e. 03.05.1991 till its realization. The claim of Palo, real sister of the deceased-Lachhu Ram is hereby rejected being a married woman and not dependent upon him.

The appeal is disposed of accordingly.

(RAMENDRA JAIN)
JUDGE

15.07.2015

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