

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

XOBJC No. 59 CII of 2002 in/and
FAO No. 1297 of 2000
Date of decision 31.03. 2015.

State of Haryana and another

..... Appellants.

versus

Ranjana Devi and others

..... Respondents.

CORAM :- HON'BLE MR.JUSTICE K.C.PURI.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present : Shri Gaurav Bansal, AAG, Haryana for the appellant.
Shri Vikas Kumar, , Advocate for respondent No.2.

K.C.PURI, J.

Vide this judgment, I intend to dispose of appeal directed by State of Haryana against the Award dated 15.03.2000 passed by Shri B.S.Rawat, Motor Accident Claims Tribunal, Hisar vide which claim petition filed under Section 163-A of Motor Vehicles Act (in short - the Act) was accepted and a sum of Rs.6,63,000/- was allowed. In the appeal cross-objections were also directed by the claimant for enhancement of the compensation amount.

2. Briefly stated the case of the claimants is that on 8.4.1998 at Barwala town Rohtash suffered injuries in a motor vehicle accident and he

succumbed to injuries in Hospital on 7.6.1998. It is alleged that Rohtash was going towards Uklana in car bearing registration No. HRY- 3321 being driven by him at a moderate speed and on the correct side of the road. When the car being driven by Rohtash approached Barwala town Bus bearing registration No.HR-20PA/0314 of Haryana Roadways which was being driven by Jagminder Singh respondent No.1 at a very high speed and in a rash and negligent manner came from the opposite direction and hit against the car No. HRY/3321 as a result of which Rohtash suffered grievous and multiple injuries. Rohtash remained admitted in Chawla Nursing Home Hisar for treatment upto 7.6.1998 when he succumbed to his injuries. Smt. Ranjna Devi widow and Funia minor son of Rohtash claimed to be dependent upon Rohtash. They have sought compensation of rupees 10lacs from the driver and owner of the bus involved in the accident.

3. On notice, respondent No.1 appeared and filed written statement and controverted the allegations made by the petitioner attributing the accident resulting in injuries to Rohtash and subsequently his death due to his rash and negligent driving of the bus. It is alleged that he drove the vehicle at a moderate speed from Chandigarh to Hisar on 8.4.1998 and when the bus approached Dhani Prem Nagar situated at a distance of three kilometers from Barwala, a Maruti Car came from the opposite direction. The car was being driven at a high speed and in a rash and negligent manner and the car hit the bus. The driver of the car and one more person who was occupying seat in the car suffered injuries. The car was being driven in a rash and negligent manner because it was carrying

poppy straw and the driver was also driving the car at a high speed under the effect of poppy straw consumed by him. Answering respondent has further stated that he went to the police station and informed the police about the accident. Denying other averments, answering respondent prayed for dismissal of the claim petition.

4. Respondent Nos.2 and 3 also controverted the allegations made by the petitioners and gave the same version of the accident as was given by respondent No.1.

5. From the pleadings of the parties, following issues were framed :-

- (1) Whether Rohtash son of Chattar Singh resident of Shiv Nagar, Hisar suffered grievous injuries in vehicular accident on 8.4.1998 on the highway in the area of Barwala town owing to rash and negligent driving of bus No. HR-20PA/0314 by respondent No.1 Jagminder Singh and he succumbed to these injuries on 7.6.1998 ?
OPP.
- (2) Whether the petitioners are the dependents of Rohtash Singh deceased and they are entitled to any compensation, if so, from whom and to what amount ?
OPR
- (3) Relief.

6. The Tribunal, allowed the claimants to amend the petition from under Sections 166 of the Motor Vehicles Act to under Sections 163-A of the Motor Vehicles Act and allowed the claim petition to the extent mentioned above.

7. Feeling dissatisfied with the above said Award, the appellant-State has directed the present appeal whereas the claimants have directed the cross-objections for enhancement.

8. I have heard learned counsel for the parties and have gone through the records of the case.

9. Learned counsel for the appellant has submitted that according to the finding of the tribunal the claimants have failed to prove that accident resulting in death of Rohtas with bus bearing registration No. HR-20PA/0314 of Haryana roadways by Jagminder Singh respondent No.1. However, the finding of the Tribunal that dependents of Rohtash deceased are entitled to claim amount under Section 163-A of the Act on the basis of structured formula indicated in the second schedule is wrong. The Tribunal has taken income of deceased as Rs.4500/- per month and as such the yearly income comes to Rs.54000/-. The claim petition cannot be accepted as income of the deceased was more than Rs.40,000/-per month. To support this contention learned counsel for the appellant has relied upon authority **National Insurance Company Ltd. Vs, Baljit Kaur and Ors reported in 2007 (1) R.C.R. (Civil) page 579.**

10. On the other hand counsel for the claimants has submitted that income of the deceased can be taken as Rs.40,000/- per annum and the amount can be calculated accordingly. It is submitted that in case the amount spent on the medicines and other misc. expenses is taken on record, in that case, the amount awarded by the Tribunal would be justified. It is further submitted that amount in respect of consortium, funeral expenses and loss of estate have not been granted. However, the learned counsel for the claimants/respondents is fair enough to concede that no case for enhancement of compensation is made out.

11. I have considered the submissions made by both the parties and have gone through the records of the case with their able assistance.

12. There is finding returned by the Tribunal that claimants have failed to prove that accident has taken place due to rash and negligent driving of Roadways bus by Jagminder Singh respondent No.1. The contention raised by the counsel for the State that petition is not maintainable in case the income of the deceased is more than Rs.40,000/-, but the counsel for the claimants has stated at the Bar that income of the deceased may be taken as Rs.40,000/- per month, so in case the amount is calculated by taking the income of the deceased as Rs.40,000/-, the dependency of the claimants comes to Rs.26,666/- per annum by deducting 1/3rd in respect of personal expenses of the deceased as per scheduled of Section 163-A of the Act. The deceased was 30 years of age. So, by applying the multiplier of 18, a sum of Rs.4,79,999/- rounded off to Rs.4,80,000/-. The claimants are also held entitled to claim Rs.9500/- in respect of loss of estate, loss of consortium and funeral expenses as per Schedule of Section 163-A of the Act.

13. The learned Tribunal has allowed a sum of Rs.15,000/- in respect of medical expenses whereas the amount spent on medical expenses is on higher side. In authority **Oriental Insurance Company Limited vs. Smt. Kulwinder Kaur and another reported in 2014(1) RCR (Civil) page 756,** this court has held that where the treatment is long or loss is heavy, the compensation cannot be kept confined within the limits

prescribed by the second schedule of Section 163A of the Act. So, in case the amount of compensation is taken into account, the sum of Rs.6,63,000/- granted by the Tribunal can be justified. Otherwise also, the claimants in the present case are widow and minor daughter of the deceased. The compensation amount has been stated to be paid to the widow and minor daughter of the deceased. Even if the appeal of the appellant State is accepted, the State would not be in a position to recover the amount. Otherwise also, it would be unfair to order the recovery of amount paid to widow and minor daughter after a period of so many years.

14. In view of the above both appeal as well as cross-objections are without any merit and the same stand dismissed. In view of the peculiar circumstances of the case, the parties are left to bear their own costs.

15. A copy of this judgment be sent to the trial Court for strict compliance.

**(K.C.PURI)
JUDGE**

March 31 , 2015
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