

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 392 of 2000 (O&M)

Date of decision 04.08. 2015.

Smt. Sumitra Devi and others

..... Appellants.

versus

The State of Haryana 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 : Mr. Nikhil Thakur, Advocate for
Mr. Manish Jain, Advocate for the appellant.
Mr. Gaurav Bansal, AAG, Haryana.

K.C.PURI, J.

Challenge in this appeal is against the Award dated 14.06.1999 passed by Shri R. N. Singal, Motor Accident Claims Tribunal, Hisar vide which four claim petitions preferred by the claimants were allowed.

2. The facts as gathered from the record are that on 18.07.1996, deceased Raj Kumar was driving car No. HR20A-353. Jitender, Ramesh Aggarwal and Kailash were also travelling in the said car. All of them were going to Delhi in connection with business of the factory. Jeep No. HRW-

300 was also following the car. The jeep was being driven by Lal Chand. Krishan Lal of Steel Factory was also sitting in the jeep. Both the car and jeep were being driven at a moderate speed on the left side of the road. When the car reached near Stasang Bhawan near Vakil Colony, Hansi, one bus bearing registration No. HR46-0297 being driven at a very high speed and rashly and negligently by respondent No.3 came from Delhi side and hit the car with great force. The car was completely damaged. All the occupants of the car received grievous injuries. The bus driver stopped the bus at some distance and ran away from the spot. The injured were taken to Civil Hospital, Hansi. Raj Kumar and Jitender were declared brought dead. FIR in this regard was also registered.

3. On put to notice, respondents No.1 and 2 appeared and filed joint written statement taking preliminary objections that the owner and driver of the car were not impleaded as parties. It was further alleged that driver of the bus was coming from Gohana to Sirsa and he was driving the bus with great caution. When he reached near Hansi at about 10.00 AM, then one car was seen coming from Hisar side which was being driven at a high speed and in zig-zag manner. The car driver was trying to over take the canter due to which the accident took place.

4. Respondent No.3 filed separate written statement denying the averments made in the claim petition.

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

- 1) Whether the accident took place on account of rash and negligent driving of bus No. HR-46-0297 by respondent No.3. ? OPP

- 2) Whether the petitioners of each claim petition are the legal heirs of deceased of each claim petition ? OPP
- 3) If issue Nos 1 and 2 are proved, to what amount of compensation, if any, are the petitioners entitled to in each claim petition and from whom ? OPP
- 4) Whether the claim petitions are not maintainable in view of the objections raised in the written statement ? OPR
- 5) Relief.

6. The parties have led their respective evidence on the aforesaid issues. In the light of the same, the Tribunal allowed the claim petition and awarded compensation vide Award dated 14.06.1999.

7. Feeling dissatisfied with the above said Award dated 14.06.1999 passed by learned Motor Accident Claims Tribunal, Hisar, the claimant-appellant has directed the present appeal for enhancement.

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

9. The present appeal has been directed by the appellants for enhancement of compensation. Claimants are the parents of deceased Kailash aged 20 years, who was a bachelor. His yearly earnings have been alleged as Rs.98, 247/-. PW-5 Kishan Lal has stated that his earning was Rs.8500/- per month by running KP Steel Factory. The reliance has been placed on income tax return in which the income of deceased for three months has been shown as Rs.45,770/-. The Tribunal has taken the income of the deceased as Rs.9000/-per month. The monthly dependency has been taken as Rs.6000/- after deducting 1/3rd amount in respect of personal expenses. The yearly dependency has been taken as Rs.72,000/-.

The multiplier of 15 has been applied and in this manner the amount calculated was Rs.10,80,000/-. Another sum of Rs.10,000/- was allowed in respect of loss of estate.

10. In this case accident has taken place on 18.07.1996 and as such income has to be assessed keeping in view the price index of that year. The Tribunal has taken the income tax return for three months of the deceased. Deceased was just in the beginning of his life and income tax return is normally not filed for three months. The Tribunal has already taken the income of deceased on much higher side. In case the income of the deceased is taken correctly the compensation awarded by the Tribunal is already on higher side, even including the future prospectus, funeral expenses, loss of love and affection etc.

11. Consequently, the appeal is without any merit and the same stands dismissed.

12. A copy of this judgment be sent to the Tribunal for strict compliance.

(K.C.PURI)
JUDGE

August 04 , 2015

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