

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1905 of 2005 (O&M)
Date of Decision: May 21, 2015

U.P. State Road Transport Corporation

...Appellant

Versus

Smt.Seeso Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sandeep Kotla, Advocate
for the appellant

Mr.Adarsh Jain, Advocate
for respondents No.1 to 3.

INDERJIT SINGH, J.

Appellant U.P. State Road Transport Corporation has filed this appeal against Smt.Seeso Devi and other respondents and Bhim Singh and State of U.P. Transport Department proforma respondents challenging the impugned Award dated 06.01.2005 passed by learned Motor Accident Claims Tribunal-cum-Presiding Officer, Fast Tract Court-III, Faridabad (hereinafter referred to as 'Tribunal'), vide which compensation of ₹11,18,880/- along with interest @ 6% per annum from the date of filing the petition till realization has been awarded to the claimants.

The brief facts of the case are that claimants filed claim petition under Section 166/140 of the Motor Vehicles Act, 1988

against Bhim Singh, driver of bus bearing registration No.UP-80A-9445 (offending vehicle), General Manager, U.P. Roadways, Mathura, State of U.P. Transport Department, owners of offending vehicle and the Insurance Company, Insurer of offending vehicle, by stating that on 02.11.2002, Gopal Dass along with Ram Kishan and Vijender was going to Bazar on foot on Kithwadi Road, Palwal. Gopal Dass was ahead of Ram Kishan. At about 9.30 A.M. a bus bearing registration No.UP-80A-9445, came from the side of Kithwadi Natak side, being driven by Bhim Sain driver in a rash and negligent manner at a high speed, which hit Gopal Dass from behind and front wheel of the bus crushed head of Gopal Dass. Resultantly, Gopal Dass died at the spot. Claimants claimed compensation of ₹10 lacs.

Upon notice, respondent-driver filed his written statement. The respondents-owners also filed their separate written statement and submitted that police had wrongly detained the bus as no accident had taken place.

After framing of the issues, the claimants examined Smt.Seeso Devi as PW-2 one of the claimants, PW-1 Bijender, PW-3 Ram Kishan, PW-4 Pawan Kumar and PW-5 Ramesh Chand. On the other hand, respondents examined RW-1 Rishi Pal Singh and RW-2 Bhim Sain, respondent-driver and closed the evidence.

Learned Tribunal after appreciating the evidence, awarded ₹11,18,880/- along with interest @ 6% per annum. The Tribunal assessed the age of Gopal Dass as 45 years and applied the multiplier of 15. The Tribunal also awarded amount of ₹2,000/- as

conveyance charges, ₹2000/- as funeral expenses and ₹5000/- as loss of consortium. Gopal Dass was working as Safai Karamchari in New Delhi Municipal Corporation and earning ₹9240/- per month.

Notice of motion was issued and learned counsel for the respondents No.1 to 3 appeared and contested the appeal.

At the time of arguments, learned counsel for the appellant argued that the bus owned by the appellant was not involved in the accident and Bhim Sain driver was not driving the bus, so no accident has taken place due to driver's negligence. He next argued that the compensation awarded by the Tribunal is excessive.

On the other hand, learned counsel for the respondents No.1 to 3 argued that the findings given by the Tribunal are correct and in no way, the compensation can be held as excessive.

After hearing learned counsel for the appellant and after going through the record, I find that PW-1 Bijender, who is the eye witness, deposed as per the claimants' version and deposed that the accident has taken place due to rash and negligent driving by bus driver. PW-3 Ram Kishan also deposed in favour of claim of the claimants. PW-5 Ramesh Chand, Criminal Ahlmad produced the record of the FIR No.966 dated 02.11.2002 under Sections 279 and 304-A IPC registered at Police Station City Palwal and also record of case titled as State vs. Bhim Sain, which was pending for prosecution evidence. He also proved the copy of challan under Section 173 Cr.P.C., photocopy of registration certificate of the offending vehicle, photocopy of sapurdari order and authority letter. Bhim Sain, driver of

the bus, while appearing as RW-2 deposed that he was driving the bus in the year 2002 on Mathura-Delhi route. He simply stated that no accident has taken place while he was on duty. RW-1 Rishi Pal Singh stated that he was conductor of the bus.

The perusal of the evidence on record, nowhere shows that any complaint or representation has been made to higher authorities regarding false implication of the bus by implicating Bhim Sain driver falsely in the criminal case. The denial of RW-2 Bhim Sain, driver regarding accident, cannot be believed. The trial is already going on. The bus was taken into police possession, which was also got released on sapurdari by the appellant. Learned Tribunal has correctly reached to the conclusion that accident has taken place due to rash and negligent driving of Bhim Sain, driver of the bus owned by the appellant.

Further, I find that the Tribunal has correctly taken the income of the deceased on the basis of salary certificate and has correctly applied the multiplier. Rather, the amount awarded as conveyance charges, funeral expenses and loss of consortium, in no way, can be held as excessive.

Keeping in view the above discussion, I find that the findings given by the Tribunal are correct, as per law and do not require any interference from this Court.

Therefore, finding no merit in the present appeal, the same is dismissed.

May 21, 2015

Vgulati

VINEET GULATI
2015.05.27 17:09
I attest to the accuracy and
authenticity of this document
Chandigarh

**(INDERJIT SINGH)
JUDGE**