

230 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO No. 4300 of 2014 (O&M)
Decided on: 25.8.2015.

Surjit Kaur and another

... Appellants

Versus

Sandeep Sharda and others

... Respondents

(2) FAO No. 4411 of 2014 (O&M)

Punjab State, Bus Stand Management Committee and another

... Appellants

Versus

Surjit Kaur and others

... Respondents

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

Present : Ms. Jasleen Kaur, Advocate,
for the claimants-appellants.

Mr. P.S. Bajwa, DAG, Punjab.

K.C.PURI.J.(ORAL)

Vide this judgment, I intend to dispose of aforesaid two appeals bearing FAO No. 4300 of 2014 titled as 'Surjit Kaur and others vs. Sandeep Sharda and others' and FAO No.4411 of 2014 'Punjab State Bus Stand Management Committee and another vs. Surjit Kaur and others' as both of them have arisen out of the same Award dated 24.1.2014 passed by Sh. G.K. Dhir, Motor Accident Claims Tribunal, Hoshiarpur (for short 'the Tribunal').

Briefly stated, Surjit Kaur widow, Gurvinder Kaur minor daughter, Tanranpreet Singh minor son of deceased Ranjit Singh filed claim petition under Section 166 of the Motor Vehicles Act claiming compensation on account of death of Ranjit Singh in a motor vehicular accident.

The case set up by the claimants is that on 29.7.2012 at about 5.00/5.15 PM Ranjit Singh was going on foot from the side of Bus Stand Hoshiarpur towards Jassa Singh Ramgarhia Chowk, Hoshiarpur but when he reached in front of workshop of Punjab Roadways Hoshiarpur then bus bearing registration No. PB-07-T-9929 driven by respondent No.1 in rash and negligent manner and at high speed came from inside the workshop and struck against Ranjit Singh. Ranjit Singh had fallen on the metaled portion of the road and the tyres of the bus passed over the body of Ranjit Singh, as a result of which, he died on the spot. FIR No.122 dated 30.7.2012 under Sections 279 and 304-A IPC was registered at Police Station Model, Town, Hoshiarpur.

It was pleaded that deceased was 42 years old and earning Rs.10,000/- per month. He was employed at Guru Nanak Public School Chabbewal, District Hoshiarpur and further earning Rs.8000/- per month by running a dairy farm.

The respondent No.1 filed written statement denying the contents of claim petition. Respondent No.2 filed written statement on the same lines.

From the pleadings of the parties following issues were framed:-

1. Whether death of Ranjit Singh took place in road accident on 29.7.2012 caused due to rash and negligent driving of bus No. PB-07-T-9929 by respondent No.1 as alleged ?
2. If issue No.1 is proved to what amount of compensation claimants entitled and from whom ?
3. Relief.

Learned Tribunal after appreciating evidence on the file returning finding on issue No.1 in favour of the claimants. Issue No.2 was partly decided in favour of the claimants and it was held that the claimants are held entitled to claim Rs.6,30,000/-. It was further observed that in case the amount is not paid within three months in that case the claimants would be entitled to interest @ 7.5% per annum from the date of Award till payment.

Feeling dis-satisfied with the aforesaid Award, claimants have filed FAO No. 4300 of 2014 for enhancement of compensation whereas Punjab State, Bus Stand Management Committee has directed FAO No. 4411 of 2014 for dismissing the claim petition.

FAO No.4411 of 2014

Learned counsel for the appellant has submitted that

findings on issue No.1 are wrong. Mere fact that respondent No.1 has not appeared into the witness box is not a ground for drawing adverse inference. In fact, the evidence of the appellant was closed by order of the Court and on that occasion, the driver could not be produced. It is further submitted that on the basis of statement of AW-2, the Tribunal has wrongly returned finding on issue No.1 in favour of the claimants.

Learned counsel for the claimants has supported the finding on issue No.1.

I have considered the submissions made by learned counsel for both the parties and have gone through record of the case.

The claimants have examined one eye witness who has supported the case of the claimants. The testimony of that witness goes un rebutted as driver of the offending vehicle has not come into the witness box to depose about the manner of accident. So, the finding on issue No.1 does not call for any interference.

No other point has been urged by learned counsel for the appellant. Consequently, FAO No.4411 of 2014 stands dismissed.

FAO No.4300 of 2014

This appeal has been filed for enhancement of compensation. The Tribunal has taken the income of the deceased as Rs.4500/- per month. There are three claimants and 1/3rd has been deducted in respect of personal expenses and in this manner, the total dependency has been taken as Rs.36,000/- per annum. The deceased

was 43 years and multiplier of 14 has been applied and in this manner the amount calculated was Rs.6,29,000/- which was rounded off to Rs.6,30,000/- and the same was allowed to the claimants.

Learned counsel for the appellants/claimants has placed on record photocopy of the notification. That notification relates to minimum wages w.e.f 1.3.2014 and as such it does not help the case of the appellants. Even the claimants have pleaded that deceased was earning Rs.5000/- per month and the income taken by the Tribunal is Rs.4500/-per month. The income from dairy farming was not proved and as such the income of Rs.45,00/- per month was rightly assessed. However, in this case, the deceased was stated to be 42 years old but future prospects has not been taken into account. So by adding 30% in respect of future prospects, the income of the deceased comes to Rs.5850/-. There are three dependents and as such deduction of 1/3rd has been rightly made. So, by deducting 1/3rd the dependency comes to Rs.3900/- per month and yearly dependency comes to Rs.46,800/-. Multiplier of 14 has been rightly applied by the Tribunal in view of authority **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(6) SCC 121**. By applying that multiplier, the amount of compensation comes to Rs.6,55,200/-. Another sum of Rs.25,000/- stands allowed in respect of expenses on last rites and future prospects. Widow is also held entitled to claim Rs.1 lac on account of loss of consortium. There are two minor children and

as such they are also held entitled to claim Rs.1 lac on account of loss of love and affection in view of authority **Rajesh and others vs. Rajbir Singh and others 2013 ACJ 1403** So, in this manner, the claimants are held entitled to claim Rs.8,80,200/- as compensation.

Out of the enhanced amount, Rs.1 lac shall be paid to the widow and the remaining amount shall be paid to the minor children in equal shares. The amount shall carry interest @ 7.5% per annum from the date of application till payment. The amount already paid shall be adjusted against the above said amount. The liability to pay amount shall be the same as ordered by the Tribunal.

Both the appeals stand disposed of accordingly.

25.8.2015.
SN

(K.C.PURI)
JUDGE