

FAO-5495-2014 &
FAO-8950-2014 (O&M)

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

FAO-5495-2014
Date of decision: 11.12.2015

Ravneet Kaur and others

...Claimants-Appellants

Versus

Sukhjinder Singh and another

...Respondents

FAO-8950-2014 (O&M)
Date of decision: 11.12.2015

General Manager, Pepsu Road Transport Corporation

...Appellant

Versus

Ravneet Kaur and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Anupam Singla, Advocate
for PRTC- owner of the offending vehicle

Mr.Sanjeev Goyal, Advocate
for the claimants

Mr.Sanjiv Kumar, Advocate for the driver

SNEH PRASHAR, J.

This judgment shall dispose of FAO-5495-2014 filed by
the claimants and FAO-8950-2014 filed by the owner of the

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offending vehicle. Both these appeals have arisen from the same award dated 04.04.2014 passed on the claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act of 1988") filed by legal heirs of deceased Gurpreet Singh @ Vicky, who lost his life in a vehicular accident.

The facts which need to be recapitulated are as under:-

On 20.4.2012, Gurpreet singh @ Vicky s/o Baldev Singh, resident of House No.140, Street No.01, Ward No.3, Ajit Nagar, Sunam, District Sangrur was going for taking examination of Electrician Grade-II being conducted by Punjab State Transmission Limited to be held from 2 PM to 3.30 PM at Chandigarh Group of College, Landran. At 10 AM he boarded the Chandigarh bound bus bearing registration No.PB-03Q-9024 (for short 'the offending bus') and when he was about to alight from the offending bus near the drain, Sukhjinder Singh, driver of the offending bus drove away in rash and negligent manner without caring for the whistle and indication of the conductor to stop the bus. Gurpreet Singh lost the control, fell down and came under the rear tyre of the bus and sustained multiple grievous injuries. The accident was witnessed by Harpreet Singh s/o Karnail Singh and Ramnik Singh son of Satbir Singh, residents of Sunam, who were going to Village Sheron for personal work. After causing the

accident, Sukhjinder Singh sped away from the spot. Gurpreet Singh was rushed to Civil Hospital, Sunam, where he succumbed to the injuries. A First Information Report No. 65 dated 28.4.2012, under Section 304-A of the Indian Penal Code was registered at Police Station City Sunam in respect of the accident in question.

Ravneet Kaur and others widow, minor children and father of the deceased filed a petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation on account of untimely death of Gurpreet Singh during the vehicular accident.

The driver and owner namely Sukhjinder Singh and Pepsu Road Transport Corporation, Bathinda respectively appeared and contested the petition. In the written reply filed by them, they denied the fatum of accident as well as involvement of the offending bus in the accident as alleged by the claimants. According to them a false criminal case in respect of the accident was registered in collusion with the police involving Sukhjinder Singh, driver and the offending bus.

On the pleadings of the parties, the following issues were framed:-

“1 Whether death of Gurpreet Singh alias Vicky took place as a result of rash and negligent driving of bus bearing registration No.PB03 Q

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9024 by respondent Sukhjinder Singh, on

*28.04.2012 at about 10.05 a.m. within the area of
near Canal drain, Police Station City Sunam?OPA*

*2. If issue no.1 is proved, whether the
applicants are entitled to compensation, if so, to
what amount and from whom?OPA*

3. Relief.”

Both the parties adduced their oral as well as
documentary evidence.

Arriving at the conclusion that the accident in question
occurred due to rash and negligent driving of the offending bus by
Sukhjinder Singh, which resulted in death of Gurpreet Singh, learned
Tribunal decided issue no.1 in favour of the claimants. An amount
of Rs.13,78,672/- was awarded as compensation to the claimants
and issue No.2 was accordingly resolved.

Being aggrieved by the award dated 4.4.2014 passed by
learned Tribunal, claimants appellants filed FAO-5495-2014 and
owner of the offending bus filed separate FAO-8950-2014.

The submissions made by learned counsel for the parties
have been heard and the record perused.

Learned counsel for the appellant- respondent (owner of
the offending bus) argued that lodger of the First Information

Report with the police AW2 Baldev Singh had mentioned in his statement that accident had taken place with an unknown bus and the identity of the driver was also not known. Subsequently, the offending bus and its driver Sukhjinder Singh were falsely implicated.

Learned counsel contended that the offending bus was not involved in the accident and in collusion with the police, the offending bus and its driver was implicated in the accident.

There appears no force in the argument raised by learned counsel for the appellant-respondent. The statement of AW2 Baldev Singh, who lodged the First Information Report, was corroborated by AW3 Ramnik Singh, the eye witness of the accident. He testified that on the fateful date and time, Gurpreet Singh was alighting from the bus when suddenly the driver of the offending bus ignoring the indication of the conductor to stop the bus drove away the bus, as a result of which, Gurpreet Singh lost control, fell down and was crushed under the rear tyre of the offending bus. Sukhjinder Singh drive of the offending bus did not opt to appear in the witness box to controvert the deposition of AW2 Baldev Singh and AW3 Ramnik Singh. His absence by itself is an important factor for drawing an adverse inference against him. In addition to that, the claimants produced documents Ex.A33 to 35 i.e. copy of charge sheet, copy of

report filed by the prosecution under Section 173 of the Code of Criminal Procedure and copy of order passed by learned Area Magistrate releasing the offending bus on superdari.

No evidence ocular or documentary was produced by the appellants-respondents to prove where the bus was being plied and who was its driver on the fateful date and time. The claimants were to merely establish their case on the touch stone of preponderance of probability. Based on the documents produced and the eye witness account of the accident given by the claimants, learned Tribunal has rightly concluded that it stands established that the accident took place due to rash and negligent driving of offending bus by driver Sukhjinder Singh. The said finding of learned Tribunal is upheld.

According to the claimants, deceased Gurpreet Singh was 30 years aged when he died in the accident. He was engaged in the business of computer hardware and was running a computer training centre in the name and style "New Generation" at Sunam besides doing work of part time electrician and was earning a sum of Rs.30,000/- per month.

In addition to the above, during evidence, the claimants tendered in evidence copies of sale deeds Ex.A-9 and A-10 to show that the deceased was having landed property. Oral evidence was

also led to project that the deceased was engaged in agriculture pursuits and used to supplement his income by selling crops etc. to different commission agents. However, no such plea was raised by the claimants in their pleadings and no commission agent was examined to prove the sales or income of the deceased from any such source. None of the documents produced in that regard bear signatures of the deceased.

The fact remains that the deceased had taken training of lineman and was having diploma of electrician as is proved by the certificates Ex.P16 and P17.

To support their plea that the deceased was running the business of computer hardware and was running computer centre under the name and style of New Generation Computer Centre, the claimants produced some counter foils of receipt books Ex.A28 to A32 allegedly maintained by the deceased in the course of his business, but it was noticed by learned Tribunal and rightly so that in none of the receipt books, name of computer Centre i.e. New Generation Computer Centre was written. No register indicating names / particulars of the student, period and name of the course being offered or done by them was produced. Also no document could be produced to prove the ownership / tenancy/ lease qua the premises in which allegedly, the deceased was running the computer

Anyhow, the deceased was a graduate and had passed prescribed test in the trade of electrician and was also having a national proficiency trade certificate as proved by the documents, Exs.A-12 to A14. Accordingly, the finding of learned Tribunal, treating the deceased a skilled workman and assessing his income as Rs.7924.75 paise on the basis of the minimum wages of skilled person fixed vide Notification dated November 15, 2013 issued by the Government of Punjab, Department of Labour (Labour Branch), is appropriate and calls for no intervention.

However, as per matriculation certificate Ex.A15, the date of birth of the deceased was 30.06.1979 and thus, he was 33 years of age at the time of his death. Accordingly, relying upon **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, addition in income with regard to future prospects is enhanced from 30% to 50%. Apart from this, the claimant-widow is allowed a sum of Rs.One lac on account of loss of consortium (including the amount already awarded towards loss of consortium and estate) and other claimants-mother and daughter of the deceased are allowed a sum of Rs.50,000/- on account of loss of love and affection (Rs.25,000 each).

In the above premises, the total compensation comes to

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Rs.16,96,600/- i.e. Rs.7925 (monthly income) + 50% (future prospects) - 1/3rd (deduction toward personal expenses of the deceased) x 12 x 16 (multiplier) + Rs.One lac (loss of consortium) + 50,000 (loss of love and affection to the minor child and mother) + Rs.25,000 (funeral expenses already awarded). The enhanced compensation of Rs.3,17,928/- (16,96,600- 13,78,672/- already awarded) shall be paid to claimants within a period of 45 days from the date of the receipt of the certified copy of the judgment, failing which, the same shall carry interest @ 7.5% per annum from the date of the filing of the appeal till its realisation.

Resultantly, FAO-8950-2014 filed by the owner of the offending vehicle is dismissed, whereas FAO-5495-2014 filed by the claimants is partly allowed and the impugned Award is modified to the above extent.

11.12.2015
gsv

(SNEH PRASHAR)
JUDGE