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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment Pronounced on : 22.05.2015

+ MAC APPL.707/2014 and CM No.12415/2014 (stay)

RAJASTHAN STATE ROAD
TRANSPORT CORPORATION Appellant
Through Mr.S.K.Bhattacharya, Advocate.

versus

SH.JOGINDER SINGH & ORS. Respondents
Through None.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J.

1. The present appeal is filed seeking to impugn the Award dated 30.04.2014.
2. The brief facts are that on 01.02.2013 Sh.Ravinder Singh, the deceased was coming from Gurgaon on his motorcycle. At about 1.10 a.m when he reached on Mahipalpur Flyover, he was hit by a bus belonging to the appellant driven by respondent No.5. The bus was being driven in a rash and negligent manner and came from behind and hit the motorcycle. Sh.Ravinder Singh fell down and sustained fatal injuries.
3. The Tribunal based on his evidence on record concluded that the accident took place due to the rash and negligent driving of respondent No.5.

4. On compensation, the Tribunal awarded the following compensation:-

Loss of dependency	:	Rs.12,25,224/-
Funeral Expenses	:	Rs.25,000/-
Loss of Estate	:	Rs.10,000/-
Loss of love and affection	:	Rs.25,000/-
Total	:	<u>Rs.12,85,224/-</u>

5. The Tribunal noted that the deceased was aged 27 years at the time of the accident. The Tribunal took the income of the deceased based on minimum wages of a non-matriculate which was Rs. 8,008/- per month at the relevant time though it was claimed that the deceased was a disc Jockey earning Rs.36,500/- per month. The Tribunal enhanced the assessed income by 50% for future prospects, 50% was deducted for personal and living expenses and applied a multiplier of 17 and the total loss of dependency was assessed at Rs. 12,25,224/-.

6. Learned counsel appearing for the appellant has made two submissions to impugn the award. He firstly submits that the onus to prove that the accident was caused due to the negligence of the appellant was on the claimants which onus they have not discharged. It is averred that no eye witness has been produced and none of the documents placed on record show the negligence of the appellant's vehicle which was being driven by its driver i.e. respondent No. 5. Reliance is placed on the judgment of the Supreme Court in the case of *Surender Kr. Arora & Anr. vs. Dr. Manoj Bisla & Ors.*, *MACD 2012 (SC) 126* and *Reshma Kumari & Ors. vs. Madan Mohan & Anr.*, (2013) 9 SCC 65.

7. The matter has been heard and is being disposed of at the initial stage

itself.

8. I first deal with the first contention of the appellant about the negligence. A perusal of the Award shows that the claimants had tendered the evidence of PW-1 i.e. the father of the deceased, PW-2, the mother of deceased, PW-3, the employer and PW-4, Sh. Lalit Gupta. The appellant have adduced the evidence of the driver R1W1 and the conductor of the bus R1W2.

9. The Tribunal noted that a charge-sheet has been filed against respondent No.5 for offences under Section 279/340A IPC. The Tribunal also noted that as per the mechanical inspection report, the bus of the appellant had fresh damages. Based on these documents, the Tribunal held that the negligence of respondent No. 5 stands prima facie proved and held in favour of the claimants.

10. A perusal of the Award shows that the charge-sheet has been filed against the driver of appellant's bus. The mechanical inspection report shows that the bus had damages on the front side of the bus, namely, front bumper dented/scratched, right side lower body dented/pressed/scratched, left side lower body dented/pressed/scratched. This court in the case of *National Insurance Company vs. Pushpa Rana 2009 ACJ 287* has already held that the Tribunal can in given circumstances based on the outcome of the criminal investigations and the other connected documents conclude about the rash and negligent driving of the offending vehicle. To the same effect there is a judgment of the Division Bench of the Madhya Pradesh in the case of *Basant Kaur and Ors. vs. Chatarpal Singh & Ors., 2003 ACJ 369*.

11. In the light of the above judgments and the evidence on record, in my

view, there are no reasons to interfere with the findings recorded by the Tribunal about the rash and negligent driving of the driver of the vehicle owned by the appellant.

12. Coming to the issue of future prospects. I can take judicial note of the fact that minimum wages for a non-matriculate in 2002 were Rs.2827.7/- P.M. and in 2012 were Rs.7748/- P.M. It is obvious that the prescribed minimum wages have more than doubled in ten years.

13. In case of ***Rajesh & Ors. vs. Rajbir Singh & Ors., (2013) 9 SCC 54*** the Supreme Court held that in the case of self employed or those on fixed wages, when the victim is below 40 years an addition of 50% should be made in the wages for the purpose of computing loss of future earnings.

14. In the case of ***Smt.Savita vs. Bindar Singh & Ors., (2014) 4 SCC 505***, the Supreme Court was of the view that in the case of self employed or those engaged on fixed wages, 30% increase in income over period of time would be appropriate. In the case of ***V.Mekala vs. M.Malathi & Anr., 2014 ACJ 1441***, the Supreme Court in the case of injury to a student who was studying in Class XI aged 16 years had awarded 50% increase for future prospects.

15. Further, this court in the case of ***ICICI Lombard General Insurance Company vs. Angrej Singh & Ors.*** in MAC APP. 846/2011 in judgment dated 30.09.2013 had gone into this issue and had noted the judgments of the Supreme Court in the case of ***Smt.Sarla Verma and Ors. vs. Delhi Transport Corporation and Anr., 2009 ACJ 1298***, ***Reshma Kumari & Ors. vs. Madan Mohan & Anr.(supra)***, ***Rajesh & Ors. vs. Rajbir Singh & Ors., (2013) 9 SCC 54*** and other judgments and concluded that future prospects should be given to persons who are self-employed or on fixed wages.

16. I may further note that this court in MAC APP.761/2012 ***Rakesh and Ors. vs. National Insurance Co. Ltd. and Ors.*** vide judgment dated 02.04.2014 had in a case where the deceased was 24 years old added 50% to the income towards future prospects for computing loss of dependency based on the judgment of the Supreme Court in the case of ***Rajesh & Ors. vs. Rajbir Singh & Ors.(supra)***. Against the said judgment the appellant had filed an SLP before the Supreme Court. The said SLP No.5612/2014 was dismissed by the Supreme Court on 10.10.2014.

17. In view of the above, the increase of 50% for future prospects is in order.

18. Accordingly, there is no merit in the present appeal and the same is dismissed.

19. Statutory amount, if any, be refunded to the appellant.

(JAYANT NATH)
JUDGE

MAY 22, 2015
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