

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

Date of Decision: 15.03.2016.

FAO No.1771 of 2014 (O&M)

Punjab State Bus Stand & Management Company Ltd. (PUNBUS) and
others

....Appellants.

VERSUS

Harjit Kaur and others

....Respondents.

WITH

FAO No.6286 of 2014

Harjit Kaur and others

....Appellants.

VERSUS

Punjab State Bus Stand & Management Company Ltd. (PUNBUS) and
others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Ms. Lavanya Paul, Assistant Advocate General, Punjab
for the appellant (in FAO No.1771 of 2014)
and for respondents No.1,2 and 4 (in FAO No.6286 of 2014).

Mr. Ishan Cooner, Advocate
for the appellants (in FAO No.6284 of 2014) and
for respondents No.1 to 4 (in FAO No.1771 of 2014).

SNEH PRASHAR, J.

The above captioned two first appeals had arisen from an
award dated 05.12.2013 passed by learned Motor Accident Claims

Tribunal, Amritsar (for short, “the Tribunal”) in MACT Case No.3004/22966 of 2013 by virtue of which legal heirs (claimants) of deceased Ranjit Singh, who lost his life in a vehicular accident, were awarded compensation. Both shall be disposed of by this common judgment.

The relevant facts which need elaboration are as under:-

On 31.12.2012, Ranjit Singh (since deceased) was going to Tahli chowk by means of a motorcycle in connection with his duties. At about 4:45 p.m., after crossing petrol pump of village Cheema when he reached a little ahead of Memorial of Abdul Hamid Shaheed, a bus bearing registration No.PB-02BE-9961 (hereinafter referred to as “the offending bus”) being driven rashly and negligently by its driver respondent-Kuldip Singh, came from the opposite direction and struck into his motorcycle. Because of the impact, he fell down and died at the spot. Accident was witnessed by Baj Singh who was following the deceased.

A First Information Report No.170 of 2012 under Sections 279, 304-A, 337, 338 and 427 of the Indian Penal Code in respect of the accident was registered against respondent-Kuldip Singh at Police Station Valtoha, District Tarn Taran on the statement of Baj Singh.

A petition invoking the provisions of Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) claiming compensation was filed by legal heirs of deceased Ranjit Singh impleading owners, driver and insurer of the offending bus. Respondent No.6 driver did not appear despite due notice and was proceeded against exparte. Respondents No.1,2 and 4 contested the petition by filing written statement. On the rival

pleadings of the parties issues were settled. Both the parties adduced evidence to discharge the onus of the issues on them. Considering the evidence available on record and the submissions made on behalf of the parties, learned Tribunal allowed the petition and awarded compensation to the tune of Rs.9,65,000/- to the claimants with direction to respondents No.1,2, 4 and 6 to pay the same within two months failing which they would be liable to pay interest at the rate of 6% per annum on the award amount till realization.

Feeling aggrieved by the award passed by learned Tribunal, while the appellant-Punjab State Bus Stand & Management Company Ltd. (PUNBUS) assailed the award dated 05.12.2013 by filing FAO No.1771 of 2014, claimants-appellants-Harjit Kaur and others preferred FAO No.6284 of 2014 on the ground that they had not been adequately compensated.

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

Learned counsel for the appellant-Punjab State Bus Stand & Management Company Ltd. (PUNBUS) argued that learned Tribunal erred in holding that the accident had taken place due to rash and negligent driving of the offending bus by its driver Kuldip Singh. RW1 Sarabjit Singh, being conductor of the bus was indisputedly an eyewitness of the accident. He stated that the driver stopped the bus for dropping the passengers on extreme left side of the road. The deceased, who was driving the motorcycle, came from the opposite side and hit into the driver side of the bus by coming on wrong side. He had a liquor bottle in a bag hanging

on the handle of the motorcycle which indicated that he was under the influence of liquor. In the said set of facts, learned Tribunal wrongly held that the accident occurred due to rash and negligent driving of the bus by Kuldip Singh.

To prove their version with regard to the accident, the claimants examined Baj Singh PW5 who deposing through his affidavit Ex.PW5/A gave an eyewitness account of the accident. It was on his statement that First Information Report No.170 dated 31.12.2012 was registered at Police Station Valtoha, District Tarn Taran under Sections 279, 304-A, 337, 338 and 427 of the Indian Penal Code against Kuldip Singh driver of the bus. The First Information Report contained all particulars necessary for proving the cause of accident, identity of the bus and its driver.

The argument of learned counsel for the appellant-PUNBUS that the deceased was under the influence of liquor as a bottle of liquor was found in his possession deserves outright rejection as during postmortem examination of the deceased there was no trace of liquor in his body. Even if the deceased had a liquor bottle in his possession would not mean that he had consumed liquor or was under its influence. The testimony of PW5 coupled with the factum of registration of a criminal case against driver of the bus for causing the accident is sufficient to establish that the accident was result of rash and negligent driving on part of its driver Kuldip Singh. The finding of learned Tribunal to that effect calls for no interference.

Coming to the appeal filed by the claimants for enhancement of

compensation, learned counsel for the appellants-claimants submitted that though the income of the deceased was rightly assessed by learned Tribunal on the basis of salary certificate Ex.P1 proved by PW3 Charan Dass, Paltoon Commander but no addition was made to the actual income computing future prospects. Also the amount allowed towards loss of consortium, loss of estate and funeral expenses is on the lower side. No amount was allowed for loss of love and affection to the minor child of the deceased.

PW3 Charan Dass stated that the deceased was working as Home Guard on daily wages basis and was getting Rs.386/- per day as wages and Rs.80/- as washing allowance per month. His monthly salary was Rs.12,046/-. However, during his cross-examination he stated that the services of the deceased could be terminated at any time as he was working on daily wage basis. Thus, considering the deceased as a casual labourer, the income of the deceased was rightly assessed as Rs.7500/- per month by learned Tribunal. The age of the deceased was taken as 44 years and the multiplier of '14' was rightly applied. There were four dependents on the income of the deceased namely his wife-Harjit Kaur, son-Tejinder Singh and daughters-Manpreet Kaur and Rajwinder Kaur and as per the law laid down in **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77**, 1/4th of the income was rightly deducted by learned Tribunal towards personal and living expenses of the deceased himself.

However, perusal of the award shows that no amount was

added to the income of the deceased computing future prospects. In view of law laid down in *Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170* as the age of the deceased was 44 years, the claimants are entitled to increase in the income of the deceased by 30% considering his future prospects. Accordingly, the compensation payable to the appellants-claimants is calculated as under:-

1.	Monthly income of the deceased (in Rupees)	Rs.7500/-
2.	Actual age of the deceased	44 years
3.	Increase in future income as per Rajesh and others case (supra)	Rs.2250/-
4.	Annual dependency	3/4 of Rs.9750 x 12 = Rs.87,750/-
5.	Multiplier	14
6.	Total	Rs.12,28,500/-

In addition to the amount of Rs.12,28,500/- calculated towards dependency, the amount of Rs.5000/- awarded under the funeral expenses is enhanced to Rs.25,000/- whereas the amount of Rs.10,000/- awarded towards loss of consortium is enhanced to Rs.1,00,000/-. A further amount of Rs.50,000/- is awarded to appellant-claimant No.2 for loss of love, care and guidance. The amount of Rs.5000/- awarded under loss of estate is just and adequate.

Accordingly, the appeal FAO No.1771 of 2014 filed by appellant-Punjab State Bus Stand & Management Company Ltd. (PUNBUS) and others is dismissed whereas the appeal FAO No.6284 of 2014 filed by claimants Harjit Kaur and others is partly allowed and the award dated 05.12.2013 passed by learned Tribunal is modified. The

appellants- claimants are held entitled to enhanced compensation of Rs.4,43,500/- in addition to the amount of Rs.9,65,000/- awarded by learned Tribunal. The enhanced amount of compensation shall be deposited by respondents No.1,2, 4 and 6 within 45 days from the date of receipt of certified copy of this judgment failing which the appellants-claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum. The amount of compensation will be disbursed to the appellants-claimants in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

15.03.2016.
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