

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

**FAO No.1777 of 2016 (O&M).
Date of Decision: 31.03.2016.**

Uttar Pradesh State Roadways Transport Corporation

....Appellant.

VERSUS

Shyamwati and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Sandeep Kotla, Advocate for the appellant.

SNEH PRASHAR, J.

By way of this appeal, the appellant has assailed the award dated 06.01.2016 passed by learned Motor Accident Claims Tribunal, Palwal (for short, “the Tribunal”) in MACT Case No.25 of 17.07.2015 by virtue of which claimants-Shyamwati and others were awarded compensation to the tune of Rs.10,98,945/- on account of death of Om Parkash (husband of respondent No.1, father of respondents No.2 to 6 and son of respondent No.7 herein), who died in a motor vehicular accident.

The relevant facts are that on 15.05.2015 Om Parkash (since deceased) alongwith Jagdish and Sunil son of Jagdish was going from village Gehlab to village Aurangabad/Mitrol by means of a three-wheeler.

When the driver of the three-wheeler stopped at bus stand Aurangabad, a U.P. Roadways bus bearing registration No.UP-85AH-9625 (hereinafter referred to as the “offending bus”) being driven rashly, negligently and in a high speed came and struck into the three-wheeler. The impact was so severe that all the occupants suffered multiple serious and grievous injuries. Jagdish succumbed to the injuries on the spot and Om Parkash was admitted in General Hospital, Palwal. His condition being critical, he was shifted to Trauma Centre, Delhi on 20.05.2015 but he breathed his last on the way to Delhi.

The First Information Report No.272 dated 15.05.2015 under Sections 279, 337 and 304-A of the Indian Penal Code in respect of the accident was registered at Police Station Sadar, Palwal on the statement of Sunil son of Jagdish.

The claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) filed by legal heirs (widow, five children and mother) of the deceased Om Parkash against driver and owner of the offending bus was partly allowed by learned Tribunal awarding compensation as indicated above.

Feeling aggrieved, the owner-appellant preferred the instant appeal.

The submissions made by Mr. Sandeep Kotla, learned counsel for the appellant have been considered.

The foremost argument emphatically submitted by learned counsel for the appellant is that respondents No.1 to 7-claimants had failed

to prove the income and avocation of deceased Om Parkash, yet learned Tribunal taking him as an unskilled labourer assessed his income as Rs.8000/- per month whereas in the year 2015 the earnings of an unskilled labourer were not more than Rs.6500/- per month as per the schedule of Minimum Wages Act. The only other argument raised by learned counsel is that no accident had taken place involving the offending bus but the claimants in collusion with the police had managed to falsely involve the bus being a government vehicle. Learned Tribunal held the driver of the offending bus liable for causing the accident merely on the ground that a First Information Report in respect of the accident had been registered against him.

There appears no merit in the arguments of learned counsel for the appellant on both counts. As regards involvement of the offending bus in the accident, it is not the case of the appellant that all particulars necessary for proving identity of the vehicle i.e. the offending bus, involved in the accident were not mentioned in the First Information Report registered in respect of the accident. As is apparent from the facts and evidence discussed by learned Tribunal, Sunil son of Jagdish, lodger of the First Information Report, was also travelling in the same three-wheeler of which the deceased was the occupant when the three-wheeler was hit by the offending bus due to its rash and negligent driving.

As mentioned by learned Tribunal in Para No.9 of the award, Sunil stepped into the witness box as PW2 and gave an eyewitness account of the accident through his affidavit Ex.PW2/A. He stated that the accident

occurred due to rash and negligent driving of the offending bus which hit three-wheeler from backside. He also stated that his father and one Om Parkash, who were travelling with him in the three-wheeler suffered serious and fatal injuries. His father died at the spot and Om Parkash died subsequently on 20.05.2015. His deposition coupled with the criminal case registered in respect of the accident against driver of the offending bus was sufficient for substantiating the plea of the claimants that the offending bus was the vehicle which caused the accident due to its rash and negligent driving by driver Narender Kumar.

The other argument of learned counsel for the appellant that the income i.e. Rs.8000/- per month of the deceased assessed by learned Tribunal is on the higher side, is devoid of merit. The claimants pleaded that the deceased was employed with Chauhan Sports Wear, Main Market, Aurangabad and was drawing salary of Rs.15,000/- per month. They produced a salary certificate wherein the salary of the deceased was mentioned as Rs.12,000/- per month. However, as the salary certificate was not proved in due process of law, learned Tribunal taking the deceased as an unskilled worker assessed his income as Rs.8000/- per month. The minimum wages of an unskilled person as per Haryana Government Labour Department notification dated 21.10.2015 was Rs.7600/- per month. The wage rate as per minimum wage notification is only a yardstick and not an absolute factor to be taken to determine the compensation. Considering the same, the amount of Rs.8000/- assessed as income of the deceased cannot be said to be excessive and hence no intervention is called for in the

findings of learned Tribunal.

Thus, there being no merit in the appeal, it is hereby dismissed.

(SNEH PRASHAR)
JUDGE

31.03.2016.
jitender