IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.5531 of 2013 (O&M)

Date of decision : 07.09.2016

Pepsu Road Transport Corporation

......Appellant

Versus

Santosh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Karan Singla, Advocate for appellant.

Mr. Vikram Bali, Advocate for respondents No.1 to 5.

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DARSHAN SINGH, J.

The present appeal has been preferred by the Pepsu Road Transport Corporation, Patiala (hereinafter called the "Corporation"), the owner of bus bearing registration No.PB-11P-7406, against the award dated 05.08.2013 vide which respondents No.1 to 5/claimants have been awarded compensation to the tune of Rs.12,48,200/- on account of death of Vijay Kumar in the motor vehicular accident, which took place on 30.06.2012.

2. The present appeal has been preferred by the appellant Corporation/the owner of the vehicle to assail the quantum of compensation.

3. I have heard learned counsel for the parties and have gone through the record carefully.

4. Learned counsel for the appellant Corporation contended that as per the income tax return placed on record by the claimants, the date of birth of the deceased is mentioned as 26.01.1952. He contended that on the date of accident, he was more than 60 years of age. The learned Tribunal has wrongly taken his age as 48 years and wrongly applied the multiplier of 13. Thus, he contended that the exorbitant amount of compensation has been awarded.

5. On the other hand, learned counsel for the respondents-claimants contended that as per the post mortem report, the age of the deceased was 48 years. He contended that the learned Tribunal has rightly taken into consideration the age of the deceased and has rightly applied the multiplier of 13. He further contended that the learned Tribunal has not awarded just compensation under the conventional heads.

6. The only dispute in the present appeal is as to what was the age of the deceased at the time of the accident. Learned counsel for the appellant Corporation contended that deceased was more than 60 years of age, whereas learned counsel for the respondents-claimants has pleaded that his age was 48 years. Ex.P4 is the copy of income tax return filed by the deceased for the assessment year 2008-09. Ex.P5 is the copy of the income tax return for the assessment year 2009-10. Ex.P6 is the copy of the income tax return for the assessment year 2010-11. In all these income tax returns, the date of birth of the deceased is mentioned as 26.01.1952. This accident has taken place on 30.06.2012. Thus, as per

the date of birth of the deceased mentioned in his income tax return, he was 60 years, 05 months and 04 days of age. The age mentioned in the post mortem examination is mentioned by the doctor just by estimation on the basis of appearance. Whereas, in the income tax return, one has to mentioned his accurate date of birth. So, the age mentioned in the post mortem report cannot be taken into consideration in the face of the date of birth mentioned in the income tax returns of the deceased. So, there is no escape from the conclusion that on the date of accident, deceased was 60 years, 05 months and 04 days of age. So, the multiplier of 7 shall be applicable. The learned Tribunal has determined the income of the deceased to be Rs.9500/- per month and loss of dependency has been determined to be Rs.7200/- per month i.e. Rs.86,400/- per annum. The multiplier of 07 shall be applicable as per the age of the deceased. The total loss of dependency comes to Rs.6,04,800/-.

7. The learned Tribunal has awarded Rs.25,000/- towards funeral and last rites expenses and Rs.1,00,000/- towards loss of consortium. But in addition to that respondents-claimants No.2 to 4 the children of deceased shall be entitled to Rs.1,00,000/- towards loss of love, care and guidance. Respondent-claimant Radha Rani, the mother of the deceased shall be further entitled to a sum of Rs.1,00,000/- towards loss of love and affection of her son. In this way the total amount of compensation comes to Rs.9,29,800/-.

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation

payable to respondents-claimants is reduced to Rs.9,29,800/- from Rs.12,48,200/- as awarded by the learned Tribunal. The respondents-claimants shall also be entitled to interest on the reduced amount of compensation from the date of filing the petition till realisation at the rate as awarded by the learned Tribunal. The liability to pay the reduced amount shall remain as determined by the learned Tribunal in the main award.

07.09.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No