

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

**FAO No.5218 of 2015 (O&M)
Date of decision: 06.01.2016**

General Manager, Himachal Road Transport Corporation

....Appellant

Versus

Megna Sharma and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ravinder Arora, Advocate,
for the appellants.

Mr. Naveen Sharma, Advocate,
for the caveator-respondent Nos. 1 to 5.

RITU BAHRI J. (Oral)

Himachal Road Transport Corporation-appellant (for short 'HRTC') has preferred this appeal against the award dated 25.03.2015 passed by Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal') whereby, compensation of Rs.13,91,800/- has been awarded in favour of the claimants-respondent Nos.1 to 5 on account of death of Harish Kumar in a motor vehicular accident which took place on 04.02.2013.

Brief facts of the case are that on 04.02.2013, deceased-Harish Kumar had gone to attend the marriage of his relative at Dhami Palace, Pathankot Road, Jalandhar. After attending the function, he left Dhami Palace in order to return to his home at Rishikesh, Uttrakhand. He was walking on left side of the road for taking a conveyance. In the meantime, a bus bearing registration No.HP-38-C-5110, being driven by Des Raj

(respondent No.6 herein) in a rash and negligent manner, came from the side of Bhogpur and struck against Harish Kumar, as a result of which, he fell down and died at the spot. The accident was witnessed by Amit Kumar son of Shiv Kumar. Consequently, claimants-respondent Nos. 1 to 5 filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of bus bearing registration No.HP-38-C-5119 by Des Raj-respondent No.6 and thus, returned the finding on Issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Amit Kumar (AW-4), who was an eye witness of the accident. Further, registration of FIR, Ex.A46, was a conclusive proof that the accident had taken place when Des Raj-driver was driving the offending bus in a rash and negligent manner, as a result of which, Harish Kumar had died.

While assessing compensation, the income of deceased, who was running a *karyana* (grocery) shop, was taken as Rs.8000/- per month as that of a self employed and skilled worker. 30% of the total income was added as future prospects, which came to Rs.10,400/- (8000 + 2400). He was having five dependents. Therefore, out of the above income, 1/4th amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.7800/- per month. Keeping in view the age of deceased, multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.12,16,800/-. In addition to it, Rs.1,00,000/- were awarded towards loss of consortium, Rs.50,000/- for loss of love and affection and Rs.25,000/- for funeral expenses. Hence, the claimants-respondent Nos. 1 to 5 were found entitled to total compensation

of Rs.13,91,800/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the HRTC-appellant has preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Megna Sharma, widow of deceased, while appearing as AW-1 has reiterated the version given in the claim petition. Her testimony stood duly corroborated by deposition of Amit Kumar (AW-4), who was an eye witness of the accident. With regard to the accident, FIR, Ex.A46, was registered against Des Raj-respondent No.6 (respondent No.1 in the claim petition). On perusal of entire evidence led by the parties, it stands fully established that the accident in question had been caused on account of rash and negligent driving of the offending bus by Des Raj-driver. Furthermore, the compensation has been rightly assessed by the Tribunal by referring to the judgments passed in ***Sarla Verma and others vs. Delhi Transport Corporation and another***, 2009 (3) RCR (Civil) Page 77, ***Rajesh and others vs. Rajbir Singh and others***, 2013 (9) SCC 54 etc.

After going through the impugned Award, no illegality, much less perversity has been found therein, warranting interference by this Court.

Resultantly, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

06.01.2016

ajp