IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.302

FAO No.165 of 1991
Date of decision : 04.08.2017

Surjit Kaur and others ..... Appellants

VERSUS

Budh Ram and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: None for the appellants.

Mr. S.C. Chhabra, Advocate
for respondent No.1 and 2.

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SUDHIR MITTAL, J. (Oral)

The claimants are in appeal against the Award dated 07.05.1990 of the learned Motor Accident Claims Tribunal, Ferozepur.

The accident took place on 12.08.1987. The deceased is Surinder Singh S/o Amar Singh of Ferozepur Cantt. He was taken by his son Gurinder Singh at about 8.30 p.m. on 12.08.1987 on a two wheeler to the city auto rickshaw stand, where Surinder Singh boarded an auto rickshaw bearing No.PAF-2331 for Ferozepur Cantt. The auto rickshaw was followed by Gurvinder Singh on his two wheeler, who witnessed the accident caused by truck bearing No.PNA-8407 opposite the Town Hall, Ferozepur.

The learned Motor Accident Claims Tribunal, Ferozepur granted a compensation of ₹1,20,000/- and the liability was imposed jointly and severely on respondents No.4, 5 and 6 in the claim petition.

Aggrieved by the said award, the claimants i.e. widow, three sons and daughter of deceased-Surinder Singh. No cross appeal has been filed either by the owner or driver of the offending truck or by the insurance company.

None is present to represent the claimants-appellants.

I have heard learned counsel for respondents No.1 and 2 and with his assistance have gone through the record.

There is no challenge to the finding of the learned Tribunal that the accident was caused by the rash and negligent driving of the offending truck. Even otherwise, the finding is not perverse and supported by the evidence on record. Therefore, the same is upheld. The deceased-Surinder Singh was aged 52 years on the date of the accident as per the evidence on record. He was the owner of Khalsa Ice Factory and was earning ₹22,500/- annually as per the income tax return for the year 1987-88. The son of the deceased, namely, Gurvinder Singh (AW-5) has deposed that his father was earning ₹3,000/- per month, but there is nothing on record to support this oral statement. I accept the evidence produced by way of income tax return for the year 1987-88 and the monthly income would accordingly workout to ₹1,875/- per month. He left behind a widow and four children and therefore the deduction of 1/4th has to be made for the personal expenses of the deceased. Reducing 1/4th from the monthly income, we arrive at a figure of ₹1,406/- which can be taken as the dependency of the deceased. Thus, the annual dependency works out to ₹16,872/-. Since the deceased was aged 52 years on the date of the accident, the future prospects @ 15% have to be added to the annual dependency and thus, we reach at figure of ₹19,402.80/-

as the annual dependency. A multiplier of 11 is applicable in the instant case and thus, the total compensation works out to ₹2,13,430.80/-. In addition, the appellants would be entitled to ₹50,000/- for loss of love and affection and ₹25,000/- for funeral expenses. Therefore, total compensation will be ₹2,88,430.80/-.

The appeal is allowed in the above terms. The unpaid amount would carry interest of 6% per annum from the date of filing of claim petition till the date of realization.

Since there is no dispute that the offending truck was validly insured and the driver was holding a valid driving licence, therefore, the liability to pay the compensation would be that of respondents No.1, 2 and 3 jointly and severely.

(SUDHIR MITTAL)
JUDGE

August 04, 2017
Ramandeep Singh

Whether speaking / reasoned Yes / No

Whether Reportable Yes/ No