

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.1270 of 2000

Date of Decision.31.10.2017

Meeto Devi and others

.....Appellants

Vs

Gurjant Singh and another

.....Respondents

2. FAO No.1679 of 2000

Pepsu Road Transport Corporation, Patiala

.....Appellant

Vs

Meeto Devi and others

.....Respondents

Present: Mr. Yashpal Thakur, Advocate for
Mr. Gurcharan Singh, Advocate
for the appellants in FAO No.1270 of 2000
and for respondent Nos.1 to 4 in FAO No.1679 of 2000.

Mr. Harsh Chopra, Advocate
for the appellant in FAO No.1679 of 2000 and
for respondent No.2 in FAO No.1270 of 2000.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

This order of mine shall dispose of two appeals bearing Nos.1270 of 2000 filed at the instance of the claimants seeking enhancement of compensation and 1679 of 2000 by the PRTC for setting aside the impugned award on the premise that the bus bearing registration No.PB-11-9059 was not involved in the accident.

Learned counsel appearing on behalf of the appellants-claimants submits that the deceased Bira Ram was driving a scooter on the ill-fated date i.e. 05.01.1998 when the aforementioned bus in order to save a

multiple grievous injuries, resulting into his death.

The Tribunal on the basis of the record found that though the accident was denied in the written statement but on going through the evidence, it surfaced that the bus was involved in the accident i.e. through the testimony of RW-1, Gurjant Singh, the driver and the compensation awarded to the tune of the ₹3,60,000/- is too paltry as no compensation on account of loss of consortium, loss of love and affection and funeral expenses has been awarded, though the claimant was a Mason and Driver and left behind widow, son and parents. The deduction for personal expenses should have been applied 1/4th, thus, the amount of compensation is liable to be enhanced.

Mr. Chopra, learned counsel appearing on behalf of the PRTC submits that the claimants have not been able to prove involvement of the bus in the aforementioned accident, resulting into death of the deceased. In the absence of the same, liability to pay the compensation, much less, of any enhancement cannot be fastened upon PRTC. The multiplier is on the higher side. It should have been 18 instead of 20. The author of the DDR is none else but the wife of the deceased i.e. the claimant and she did not prove her presence at the spot of accident. There is no independent eye witness with regard to involvement of the bus in the accident, therefore, the award is liable to be set aside.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force in the arguments of Mr. Chopra, learned counsel representing PRTC except for adopting the multiplier of 20 instead of 18, as on going through the record of the Tribunal, particularly, the statement of RW-1, the factum of the accident has not been denied. For

the sake of brevity, the examination-in-chief and cross-examination of Gurjant Singh, driver of the offending bus, is reproduced as under:-

“RW-1 Statement of Gurjant Singh-Driver No.BL61, Patiala-I Depot. PRTC Patiala on SA.

*On 24.12.1997 I was on duty with Bus No.PB-11-9059 and was going from Patiala to Patran and reached the place of occurrence at about 4-00 p.m. The scooter rider came from the link road and approached the main road and did not come from the back side of the bus. I was driving my bus at a normal speed and on the left side of the road. Meanwhile, a stray cow which was also being followed by stray dogs wanted to cross the main road seeking this, I applied brakes and took my bus towards the right side of the road to save the cow. In spite of that the cow struck in my bus i.e. on the left side of the bus. Thereafter, the cow struck with the scooter driver with great impact with the result the scooterist fell on the road and received injuries. Thereafter, I removed the scooter driver to the Rajindra Hospital, Patiala for treatment. The scooter did not at all touched my bus. **This accident took place on account of cow suddenly coming and hitting the bus and also on account of the deceased who was driving the scooter very fast.** No police case has been registered against me. The deceased was 25 years of age. I did not drive Bus No.PB-11-9039 on this route on 24.12.1997. I am innocent.*

Xxxxxx by claimant.

The deceased Bira Ram belongs to my village. Prior to the accident he was not known to me. The jurisdiction of the place of accident falls in P.S. Ghagga.”

As regards the argument of learned counsel appearing for the appellants that the deceased was a Driver, no documentary evidence has been placed on record to establish the same except a bald statement on one of the witnesses, therefore, in my view, the claimants have not been able to

establish the factum of the deceased being a driver by avocation.

As regards the enhancement of compensation, the Tribunal, in my view, ought to have applied the multiplier of 18 and not 20. Resultantly, the multiplier is reduced to 18. I will take the income of the deceased as ₹2500/- per month as has been taken by the Tribunal, make a deduction of $\frac{1}{4}$ th towards personal expenses and apply a multiplier of 18 to assess the loss of dependency as ₹4,05,000/-. I will further add to it ₹1 lac for loss of consortium to the wife, ₹1 lac for loss of love and affection to the child and parents, ₹10,000/- for loss of estate and ₹25,000/- for funeral expenses.

In all, the compensation payable shall be ₹6,40,000/-. The amount in excess over what has already been provided by the Tribunal shall also attract interest @6% per annum from the date of filing of the appeal till its realization. The enhanced amount shall be distributed amongst the claimants in the ratio of 2:2:1:1. The liability shall remain the same as has already been determined by the Tribunal.

The award stands modified to the above extent. Resultantly, the appeal filed by the claimant in the appeal bearing No.1270 of 2000 is allowed and the appeal filed by PRTC bearing No.1679 of 2000 is dismissed.

(AMIT RAWAL)
JUDGE

October 31, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable Yes