

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 836 of 2001

Date of Decision: September 01, 2017

Renu Rani and another

.....Appellants

versus

Jasbir Singh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: None for the appellants

Mr. Neeraj Khanna, Advocate
for respondent No. 3 – Insurance Company

Ms. Parveen Maan, Advocate for
Mr. R.S. Budhwar, Advocate
for respondents No. 4 and 5

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Sudhir Mittal, J. (Oral)

1. On the last date of hearing, none had appeared on behalf of the appellants. As is clear from the order dated 04.08.2017, one last opportunity was granted to the parties. The appeal is of the year 2001. I therefore, proceed to decide this case in the absence of learned counsel for the appellants.

2. The facts of this case are that on 30.07.1998 Gurdial Singh, Vigilance Inspector, Ambala was visiting Saket Hospital, Panchkula in Jeep No. HIE-21 alongwith his wife and son. Two other people; namely, Siri Pal @ Bittu (driver of the jeep) and one Raj Kumar were accompanying them. Two more persons boarded the jeep from the chowk of village Saha at about 9.45 A.M. When the jeep was near the turn of village Saha, a truck bearing No. CH01-T-8785 came from the opposite side and was attempting to overtake another truck. As a result, the accident took

one Sushil Kumar were seriously injured. While the injured were being taken to hospital, son of Gurdial Singh also died. The driver namely Siri Pal, died later in a private hospital namely, Moga Hospital, Ambala Cantt. Hence the claim petition.

3. A number of claim petitions were filed but we are only concerned with the claim petition filed on account of death of Shamsheer Singh, who was the son of Gurdial Singh. Separate written statements were filed on behalf of the driver and owner of the offending vehicle and the Insurance Company. The driver and owner of the offending vehicle have pleaded that the accident took place on account of rash and negligent driving of Siri Pal @ Bittu (driver of the jeep). The incident of the accident is, however, not denied. The respondent – Insurance Company has pleaded that the driver of the offending truck did not hold a valid driving licence and also that the driver of the jeep also did not hold a valid driving licence. It has further been pleaded that the jeep in question was being plied as a taxi and, therefore, the terms of the Insurance Policy have been violated.

4. Learned Tribunal has found that the driver of the offending truck as well as the driver of the jeep held valid driving licences. It has also been found that the offending truck was duly insured with the respondent – Insurance Company. A finding regarding the accident having been caused due to rash and negligent driving of the driver of the offending truck has been returned in favour of the claimants. Nothing has been pointed out to persuade me to hold differently than the learned Tribunal and, therefore, the findings on all the issues mentioned hereinbefore, are upheld. The respondent – Insurance Company did not lead any evidence in support of its plea that the jeep was being used as taxi, hence, the said plea is liable to be rejected.

5. The only issue that deserves consideration now is whether appropriate compensation has been awarded by the learned Tribunal to the heirs of Shamsheer Singh (deceased) ? In respect of the death of Shamsheer Singh, claim petition was

filed by Gurdial Singh (father), Renu Rani (widow), Ms. Vaishali (minor daughter) and Renu Bala (sister). There is evidence on record to show that Gurdial Singh (father) was employed in the Police Department and, therefore, he can not be construed to be dependent upon his son viz. Shamsher Singh. Renu Bala (sister) was dependent upon her father viz. Gurdial Singh and, hence, she too can not be treated as dependent upon Shamsher Singh. The leaned Tribunal, therefore, rightly treated Renu Rani (widow of Shamsher Singh) and Vaishali (minor daughter of Shamsher Singh) as the only dependents of Shamsher Singh, who were entitled to compensation. Shamsher Singh was serving in the Police Department and his salary certificate has been proved on record as Ex. P-1 by PW-1 Mohinder Singh. According to this certificate, Shamsher Singh was drawing a monthly salary of ₹ 5140/-. His age at the time of death, was 31 years according to the service record. The Tribunal on the basis of Postmortem Report and character roll, wrongly held that Shamsher Singh was 33 years of age, at the time of his death. The service record is to prevail over the age mentioned in the Postmortem Report or the character roll and I hold accordingly. Being a young man of 31 years of age, increase in income on account of future prospects @ 50% should be made while calculating the income of the deceased. Deduction of 1/3rd on account of personal expenditure has to be made and a multiplier of 16 has to be applied. Thus, the compensation to which the claimants are entitled, is as follows:-

1.	Annual income after providing 50% increase for future prospects ₹ 5140 x 12 = ₹ 61,680/-	₹ 92,520/- (₹ 61,680 + ₹ 30,840)
2.	Annual dependency after reducing 1/3 for personal expenses	₹ 61,680/- (₹ 92,520 - ₹ 30840)
3.	Annual dependency after applying multiplier of 16 (₹ 61680 x 16)	₹ 9,86,880/-
4.	Loss of consortium	₹ 1,00,000/-
5.	Loss of love and affection	₹ 1,00,000/-
6.	Funeral expenses	₹ 25,000/-
	Total Compensation	₹ 12,11,880/-

6. The appeal is allowed in the above mentioned terms. The unpaid amount shall carry interest @ 7.5 % per annum from the date of claim petition till the date of payment. This amount shall be paid by the Insurance company within a period of three months, from the date of receipt of a certified copy of this judgment.

September 01, 2017

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No