

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

FAO No.437 of 2006

Date of Decision.14.11.2017

Pepsu Road Transport Corporation and another .....Appellants

Vs

Baljit Kaur and others .....Respondents

2. FAO No.438 of 2006

Pepsu Road Transport Corporation and another .....Appellants

Vs

Sukhpal Kaur and others .....Respondents

3. FAO No.439 of 2006

Pepsu Road Transport Corporation and another .....Appellants

Vs

Gurdip Kaur and others .....Respondents

4. FAO No.2701 of 2006

Banso Kaur and others .....Appellants

Vs

Sikander Singh and others .....Respondents

5. FAO No.2702 of 2006

Sukhpal Kaur and others .....Appellants

Vs

Sikander Singh and others .....Respondents

6. FAO No.2703 of 2006

Baljit Kaur and others .....Appellants

Vs

Sikander Singh and others .....Respondents

7. FAO No.2704 of 2006

Gurdip Kaur and others

.....Appellants

Vs

Sikander Singh and others

.....Respondents

Present: Mr. S.S. Sidhu, Advocate  
for the appellants in FAO Nos.2701 to 2704 of 2006 and  
for the respondents-claimants in FAO Nos.437 to 439 of 2006.

Mr. Balwinder Singh, Advocate  
for the appellants in FAO Nos.437 to 439 of 2006 and  
for PRTC in FAO Nos.2701 to 2704 of 2006.

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

-.-

**AMIT RAWAL J.(ORAL)**

This order of mine shall dispose of seven appeals, out of which four appeals bearing Nos.2701 to 2704 of 2006 filed at the instance of the claimants seeking enhancement of compensation and three appeals bearing Nos.437 to 439 of 2006 at the instance of the Pepsu Road Transport Corporation for challenging the liability fastened upon it by the Tribunal.

The deceased persons namely Hardev Singh, Balbir Singh, Harpal Singh and Bachittar Singh were travelling from Giddarbaha to Buladewala in maruti car bearing registration No.PB-31-8520 being driven by Harpal Singh. When they reached in the area of village Karamgarh Satran, a PRTC bus bearing registration No.PB-11-9082 driven rashly and negligently by respondent No.1 hit against the aforementioned maruti car, as a result of which all the four occupants in the car died at the spot.

The compensation awarded by the Tribunal for death of aforementioned persons is tabulated as under:-

| Sr. No. | Name of the deceased | Age | Occupation & income                             | deduction towards personal expenses | multiplier | Total compensation (₹) |
|---------|----------------------|-----|-------------------------------------------------|-------------------------------------|------------|------------------------|
| 1.      | Bachhittar Singh     | 45  | Labourer<br>₹2100/- p.m.                        | 1/3 <sup>rd</sup>                   | 13         | 2,27,900/-             |
| 2.      | Balbir Singh         | 45  | Agriculturist/<br>dairy farming<br>₹3500/- p.m. | 1/3 <sup>rd</sup>                   | 15         | 4,14,500/-             |
| 3.      | Hardev Singh         | 40  | Owner and driver<br>of truck<br>₹4000/- p.m.    | 1/3 <sup>rd</sup>                   | 15         | 4,89,500/-             |
| 4.      | Harpal Singh         | 35  | Agriculturist/<br>dairy farming<br>₹3500/- p.m. | 1/3 <sup>rd</sup>                   | 16         | 4,41,500/-             |

Learned counsel appearing on behalf of the appellants submits that the appeals filed by the PRTC are liable to be dismissed on the sole ground that it did not prefer any appeal against the award passed in the case of “Banso Kaur and others Vs. Sikander Singh and others” against which the claimants are in appeal bearing No.2701 of 2006, though the awards have been passed on the basis of solitary statement of common eye witness AW1 namely Hamir Singh.

As regards the issue of enhancement, he submits that Bachhittar Singh was working as an agricultural labour and his income had been assessed as ₹2100/- per month whereas as per the Minimum Wages Act applicable in the year 2004, a skilled labour was getting ₹2930/- per month, therefore, his income should have taken as ₹3000/- per month. As per the ratio decidendi culled out in the judgment of Hon'ble Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and Ors.** in SLP (Civil) No.25590 of 2014 decided on 31.10.2017, even in case of self-employment, some increase in the salary is required to be made as future prospects. Multiplier of 13 is also lower side. The amounts provided for loss of consortium, loss of estate and funeral expenses are also on lower

side, therefore, the amount of compensation is required to be enhanced.

In case of Balbir Singh, he was an agriculturist and stated to be earning from dairy farming as well, therefore, his income taken as ₹3500/- per month is on lower side, much less, no future prospects provided. The amounts provided for loss of consortium, loss of estate and funeral expenses are also on lower side.

In case of Hardev Singh, he was an owner and driver of a truck and stated to be earning ₹5000/- per month. In this regard, registration certificate of the truck in his name has been proved but the Tribunal erred in taking the income as ₹4000/- per month. The compensation in this case also required to be enhanced on the same grounds as taken in aforementioned two cases.

In case of Harpal Singh, learned counsel appearing for the appellant submits that as per jamabandi, he was shown to be an owner of land measuring 101 kanals i.e. around 13 acres and from the yield of one acre, a person can easily earn ₹15,000/- per year, therefore, his income ought to have been taken at least ₹1,50,000/- per annum. The same principles as laid down by Hon'ble Supreme in **Pranay Sethi's case** (supra) applies in this case, therefore, the amount of compensation is required to be enhanced.

On the other hand, learned counsel appearing on behalf of PRTC vehemently opposed the submissions of learned counsel appearing for the appellants *viz-a-viz* seeking enhancement of compensation on the premise that in view of the statement and evidence brought on record, rashness and negligence of the driver of PRTC was not proved and therefore, liability cannot be fastened upon it, thus, urges this Court for

dismissal of the appeals filed by the claimants and allowing the appeals filed by PRTC.

I have heard learned counsel for the parties and appraised the paper book.

As regards the appeals filed by the PRTC, learned counsel appearing for PRTC could not controvert non-filing of the appeal *viz-a-viz* death of Bachhittar Singh, who died in the same accident and the Tribunal awarded the compensation on the basis of statement of common eye witness, in essence, the award passed in the aforementioned case has attained finality and it can be presumed/implied that the PRTC has admitted its liability. Moreover, an application was moved by Sukhdev Singh, Inspector PRTC, Bathinda before the Addl. Chief Judicial Magistrate, Bathinda for getting the same bus released on sapurdari which was involved in the accident. They did not produce any duty register to establish that respondent No.1 was not deputed on the bus alleged to be involved on the date of accident. The testimony of eye witness-Hamir Singh, AW1 also gone un rebutted.

Keeping in view the aforementioned facts, I am of the view that there is no force and merit in the submissions of learned counsel appearing for PRTC, thus, the appeals filed by PRTC i.e. FAO Nos.437 to 439 of 2006 are dismissed upholding the awards passed by the Tribunal on the issue of liability.

As regards the appeals filed by the claimants for enhancement, I am of the view that taking into consideration the ratio decidendi culled out by Hon'ble Supreme Court in **Pranay Sethi's case** (supra), the amounts of compensation are required to be enhanced. The Tribunal assessed the

income of all the deceased persons on lower side. In case of Bachhittar Singh, I will take the income as ₹3000/- per month as per Minimum Wages Act applicable at the relevant point of time. In the absence of any documentary proof with regard to ownership of land of Balbir Singh, I will take his income from both avocation i.e. agriculture and dairy farming as ₹5000/- per month. In case of Hardev Singh also, I will take the income as ₹5000/- per month. With regard to Harpal Singh, as per jamabandi he was shown to be in ownership of around 13 acres of land but the fact remains that the land is still available with the legal representatives but being a big landlord, I will assess the value of his managerial skills as ₹5000/- per month and further add ₹2000/- for income from dairy farming, thus, his income will be taken as ₹7000/- per month. I will apply the parameters laid down by Hon'ble Supreme Court in Pranay Sethi's case (supra) and tabulate the amounts of compensation for death of all the aforementioned persons as under:-

| Sr. No. | Name of the deceased | Age | Occupation & income (₹)                     | Future prospects (₹) | Income after deduction towards personal expenses (₹) | multiplier | Loss of consortium, loss of estate and funeral expenses (₹) | Total compensation (₹) |
|---------|----------------------|-----|---------------------------------------------|----------------------|------------------------------------------------------|------------|-------------------------------------------------------------|------------------------|
| 1.      | Bachhittar Singh     | 45  | Labourer 3000/- p.m.                        | 25% 3750/- p.m.      | 1/3 <sup>rd</sup> 2500/- p.m.                        | 14         | 70,000/-                                                    | 4,90,000/-             |
| 2.      | Balbir Singh         | 45  | Agriculturist/ dairy farming 5000/- p.m.    | 25% 6250 p.m.        | 1/3 <sup>rd</sup> 4167/- p.m.                        | 14         | 70,000/-                                                    | 7,70,056/-             |
| 3.      | Hardev Singh         | 40  | Owner and driver of truck Rs.5000/- p.m.    | 25% 6250 p.m.        | 1/4 <sup>th</sup> 4685.7 p.m                         | 15         | 70,000/-                                                    | 9,13,750/-             |
| 4.      | Harpal Singh         | 35  | Agriculturist/ dairy farming Rs.7000/- p.m. | 40% 9800/- p.m.      | 1/4 <sup>th</sup> 7350/-                             | 16         | 70,000/-                                                    | 14,81,200/-            |

In all the aforementioned cases, the amount in excess over what

from the date of filing of the appeal till its realization. In cases of Bachhittar Singh and Balbir Singh i.e. FAO Nos.2701 and 2702 of 2006, the enhanced amount of compensation shall be divided equally amongst the claimants. In the remaining two cases i.e. FAO Nos.2703 and 2704 of 2006, the enhanced amount shall be divided in the ratio of 2:2:2:2:1. The liability shall remain the same as has already been assessed by the Tribunal, keeping in view the fact that the appeals filed by the PRTC have been dismissed.

The awards passed by the Tribunal are modified to the above extent and the appeals filed by the claimants bearing Nos.2701 to 2704 of 2006 are allowed in the above terms.

**(AMIT RAWAL)**  
**JUDGE**

**November 14, 2017**  
Pankaj\*

|                           |     |
|---------------------------|-----|
| Whether reasoned/speaking | Yes |
| Whether reportable        | Yes |