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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4481-2011

Date of decision : 09.11.2017

Naveen Kumar

... Appellant(s)

Versus

Jaswinder Kaur and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gopal Mittal, Advocate
for the appellant.

Mr. Akshit Aggarwal, Advocate for
Mr. Sherry K. Singla, Advocate
for the respondent(s).

AMIT RAWAL, J. (ORAL)

The appellant-owner is aggrieved of the findings rendered by the Motor Accident Claims Tribunal, Patiala (in short 'the Tribunal') viz-a-viz fastening upon the liability jointly and severally upon the owner and driver of the tractor-trolley bearing Registration No.PB-13-9587, involved in an accident, wherein the deceased Gajjan Singh s/o Harbans Singh had unfortunately died.

As per the case set out in the claim petition, on 07.10.2008, Gajjan Singh was going towards his village Dharamheri on his motorcycle bearing Registration No.PB-11AG-6187 and when he reached near Dhabha Harnek Singh, the aforementioned tractor-trolley came from Cheeka side and hit his motorcycle, resulting into, head injuries. As a result of which, Gajjan Singh, as noticed above, died . An FIR bearing No.272 dated

08.10.2008 was registered under Sections 279/304-A IPC against the driver, namely, Narsi Ram.

Mr. Gopal Mittal, learned counsel appearing on behalf of the appellant-owner submits that since the vehicle was not insured, the entire liability has been fastened upon the driver and the owner, jointly and severally. The claim petition was preferred by the widow and the two adult sons and two daughters. The Tribunal has awarded the compensation to the tune of ₹ 1,50,000/- each to claimant Nos.2 to 4 and ₹ 10,15,300/- to wife i.e. claimant No.1, whereas the aforementioned daughters are not entitled to the aforementioned compensation. The driver, who stepped into witness box feigned ignorance about the accident that he was not involved in the accident, much less, not driving the vehicle at the relevant point of time. All these factors were required to be weighed by the Tribunal, having failed to address such issue, thus, findings of the Tribunal are liable to be set aside.

He further submits that the interest @ 9% has been awarded, which is also liable to be reduced.

Learned counsel for the respondent(s)-claimants submits that no fault can be found with the findings rendered by the Tribunal as the correct multiplier and the ratio has been applied in awarding the compensation. Even the adult children cannot be deprived of the compensation with regard to the loss of love and affection, which has been awarded, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit and force in the submissions of Mr. Mittal, for, as per the provisions of Motor Vehicles Act,

it is mandatory requirement of law to have a vehicle insured in order to indemnify the owner viz-a-viz the third party claim. In my view, the owner has taken a big risk in plying the vehicle without insurance. No contrary evidence has been led or brought to the notice of this Court, alleged to have escaped the mind of the Tribunal, to arrive at a different finding than the one. Resultantly, I do not find any illegality and perversity in the findings of the Tribunal viz-a-viz fastening the liability upon the driver and the owner.

As regards the amount of compensation, the multiplier viz-a-viz the death of Gajjan Singh, awarding the compensation of ₹ 10,15,300/- to the widow is a correct application of provision of law and therefore, the same cannot be faulted with.

As regards the argument of Mr. Mittal qua awarding of the compensation to the tune of ₹ 1,50,000/- each to the four adult children, also cannot be faulted with as even if the children are adult, the compensation, aforementioned, is qua loss of love and affection, which every child enjoys during the lifetime of a parent, even if, he has become the senior citizen. In the Indian Society, love and affection and the blessings of elder people are always expected and sought, thus, the aforesaid argument is also not tenable.

Viz-a-viz the interest factor, I also do not intend to reduce the same for the reasons that so far, the appellant has not paid any single amount of compensation except deposit of ₹ 25,000/-, in case, there is genuinity, perhaps this Court would have interfered. The amount of ₹ 25,000/- already lying deposited in this Court, as per the receipt, is directed to be remitted to the concerned Tribunal for onward the

disbursement to the claimants.

With the aforesaid observations, the appeal is dismissed.

09.11.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

✓
Yes/ No

Whether Reportable

✓
Yes/ No