Sr. No. 102

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 2163 of 2013(O&M)
Date of decision:01.12.2017

Didar Singh

.........Appellant

versus

Smt. Veero and another

..........Respondents

Coram: **Hon'ble Mr. Justice Rajbir Sehrawat**

Present: Ms. Ravinder Kaur Manaise, Advocate
for the appellant.

Mr. Vishal Munjal, Advocate
for the respondents.

Rajbir Sehrawat, J.(Oral)

This is an appeal filed by the owner of the offending vehicle challenging the award passed by the Motor Accident Claims Tribunal, Pathankot whereby the claimants were awarded an amount of ₹10,84,700/- as compensation on account of death of Vijay Masih.

The brief facts of the case are that the claim petition was filed by claiming that on 23.10.2010 there was rally at Gurudwara Sahib, Kahnuwan. Vijay Masih was deputed on duty in the said rally being Beldar in the department of PWD (B&R). Vijay Masih along with one Shammi Masih had gone to village Kahnuwan on motorcycle bearing Registration No. PB-18M-9223 belonging to Vijay Masih. The rally was concluded at the late hour in night. Due to that both of them had stayed at the house of the sister of Vijay Masih. On 24.08.2014 at about 4:00 am they started their journey from Kahnuwan to village Khawaja Vardag, Tehsil Dera Baba Nanak. Vijay Masih was driving the motor cycle and Shammi Masih and sister of Vijay Masih were sitting as pillion rider on the motor cycle. When they reached in the area of Adda Dehriwal Daroga More, Thakkar Sandhu then vehicle came from the front side with high beams. Therefore, Vijay Masih got his motor cycle on the extreme left side of the road. On the road a truck bearing Registration No. PB-06-2945(hereinafter referred to as an 'offending vehicle') was parked. The truck was over loaded and was having no reflector or blinking lights. Moreover, no precautionary indicators were put up by the driver of the truck. Hence due to briskness of the light of vehicle come in front, Vijay Masih could not see the stationary truck and struck against the same. Vijay Masih sustained fatal injuries and died at the spot. Therefore, the claim petition was filed on account of the death of Vijay Masih claiming that accident had happened due to the negligence on the part of the driver of the truck. It was claimed in the claim petition that the deceased was of the age of 27 years. Still further it was claimed that he was serving as Baildar in the department of PWD (B&R). The salary of the deceased was claimed to be ₹11,190/-. Accordingly, the claim petition was filed for claiming compensation.

Upon notice, respondent No. 1 appeared and filed written statement by taking routine preliminary objections and denied all the averments made in the petition. Still further no particulars of the insurance company was discussed by respondent No. 1.

Parties led their evidence.

After hearing the parties, the Tribunal held the offending truck as negligent and held respondent No. 1 liable to make payment. For assessing the compensation, the Tribunal assessed the age of the deceased to be 27 years. As per the last drawn monthly pay of the deceased; the income of the deceased was taken to be ₹11,190/-. Since the deceased was un-married, therefore, deduction of 50% was applied by the Tribunal on account of personal expenses. Therefore, loss of dependency of the claimants was assessed to be ₹5,600/- per month. The multiplier of 16 was applied. Accordingly the total loss of dependency calculated by the Tribunal was ₹10,75,200/-. Beside the above said amount, another amount of ₹9,500/- was awarded on account of general damages. Accordingly, a total of ₹10,84,700/- was awarded by the Tribunal as compensation.

Aggrieved against this award, the owner of the offending truck has filed the present appeal.

While arguing the appeal, learned counsel for the appellant has submitted that the multiplier has been applied on the higher side in the present case. Still further, it is submitted by learned counsel that the income assessed by the Tribunal is also on the higher side. Accordingly, award of compensation is challenged.

On the other hand, learned counsel for the respondent/claimant has submitted that the Tribunal has not violated any provision of law or judgment of the Court in granting the compensation, although the same is insufficient in quantum. He has supported the assessment of the Tribunal qua the income as well as the multiplier.

Having heard the learned counsel for the parties, this Court is of the considered opinion that the Tribunal has not committed any perversity in granting compensation in the present case, so far as the case of the appellant is concerned. The Tribunal has taken the income of the deceased only as per the salary certificate issued by the Government department. The deduction has also rightly been applied by the Tribunal.

So far as the multiplier is concerned, the same is also correctly applied in terms of the judgment of the Hon'ble Supreme Court rendered in the case of ***Sarla Verma vs. Delhi Transport Corporation and another, 2009 ACJ-1298***. Hence there is no illegality qua the application of the multiplier as well.

No other arguments was raised by learned counsel for the parties.

In view of the above, finding no merits in the present appeal, the same is dismissed.

1st December, 2017 **[Rajbir Sehrawat]**
Shivani Kaushik **Judge**

Whether speaking/reasoned Yes

Whether reportable No