

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 5792 of 2014 (O&M)

Date of Decision: 25.09.2017

Rajvir Kaur and others

.....Appellants

Versus

Ajit Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. D.S. Sandhu, Advocate
for the appellants.

Ms. Sukhpreet Kaur, Advocate
for respondent No.1.

Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, Advocate
for respondent No.2

AVNEESH JHINGAN, J.

The present appeal arises out of award dated 31.3.2014 passed by the Motor Accidents Claims Tribunal, Kapurthala (for short 'the Tribunal').

The brief facts for adjudication of the present appeal are as under:

On 23.2.2011 Manjit Singh @ Manjit Dhaliwal (deceased) alongwith his brother Ranjit Singh and their two minor children were going from village Bille, Tehsil Nakodar, District Jalandhar, in their Maruti Zen Car bearing registration No. PB-09-E-4679. The car was being driven by the deceased himself. The car was struck by truck bearing registration No. RJ-31-GA-0875 which was coming from opposite side. As a result of the accident, Manjit Singh @ Manjit Dhaliwal lost his life and his brother Ranjit Singh suffered injuries. The claim petitions were filed under Section

The Tribunal after considering the material before it, awarded a sum of Rs. 56,28,000/- (Rs.56,16,000/- + Rs.10,000/- for loss of love and affection and Rs.2000/- as funeral charges) alongwith interest at the rate of 9% per annum as compensation for death of Manjit Singh @ Manjit Dhaliwal.

The present appeal has been filed for enhancement of said compensation.

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

It is not in dispute that in the accident which has occurred on 23.2.2011 Manjit Singh @ Manjit Dhaliwal, aged 37 years lost his life. He was driving his Matuti Zen Car bearing registration No.PB-09-E-4679. The said car was struck by a truck bearing registration No.RJ-31-GA-0875(for short 'the offending vehicle'). Manjit Singh suffered multiple injuries and was taken to Civil Hospital Nakodar but unfortunately he died at the entry gate of the hospital. FIR No. 36, dated 24.2.2011 was registered at Police Station Nakodar.

The dependency was assessed by the Tribunal as 1200 Canadian dollars. The Tribunal after considering the Bank passbook produced for the period from 28.1.2011 to 21.9.2012 and pay roll etc. assessed the dependency. Further while assessing the dependency, the Tribunal also deducted ½ as the accident was caused due to contributory negligence of deceased himself.

Learned counsel for the appellant has argued that AW5 Lubo Mazurkiewicz deposed before the Tribunal that he was partner of A-1 Personal Resources Incorporation. He had brought on record the salary slip

Ex.AW5/1 to Ex.AW5/5. He also produced copies of invoices of payment made to Manjit Daliwal as Ex.AW5/6 to Ex.AW5/54. He also placed on record copies of the history of the pay rolls as Ex.AW5/55. The Tribunal has not denied that according to these documents, he was earning approximately 3220 Canadian dollars per month but the Tribunal has only taken the dependency of 1200 dollars per month. No explanation or reasoning has been given by the Tribunal.

Learned counsel for the respondents has argued that a sum of Rs.56,28,000/- has already been awarded by the Tribunal. Moreover the Tax liability has not been taken into account.

In such circumstance, it would be appropriate if the matter is remanded to the Tribunal to assess the loss of dependency afresh, after considering the witness and documents produced before it. The matter be re-decided on the basis of evidence and material already available on record.

Ordered accordingly.

Parties are directed to appear before the Tribunal on 24.10.2017.

It is clarified that the amount already assessed and paid would be subject to the decision in remand proceedings.

25.09.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No