

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

-.-

FAO 1690 of 2017 (O&M)  
Date of decision: 16.08.2017

*Vinod Kumar*

*..... Appellant*

*Versus*

*Sunita Rani and others*

*..... Respondents*

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

-.-

Present: Mr. Kiran Pal Singh, Advocate  
for the appellant

-.-

**Rekha Mittal, J.**

The present appeal directs challenge against award dated 08.12.2016 passed by the Motor Accidents Claims Tribunal, Panipat (hereinafter to be referred as 'the Tribunal') whereby compensation has been awarded in regard to death of Kamal Kumar son of Dilbag in a motor vehicular accident that took place on 31.07.2013.

The first submission made by counsel for the appellant is that as the alleged offending vehicle Tractor bearing registration No. HR 34-A-8519 had already been sold by the appellant, liability to pay compensation has been wrongly fastened upon him. Another submission made by counsel to challenge quantum of compensation is that the Tribunal has wrongly assessed income of the deceased at Rs.6,290.00 per month by treating him a skilled worker but there is no evidence on record that the deceased was a skilled worker. In support of his contention, he has relied upon judgment

of Hon'ble the Supreme Court of India ***HDFC Bank Limited v. Kumari***

***Reshma and others 2015 (3) SCC 679*** and judgement of Madhya Pradesh High Court ***Brijlal Khilwani v. Sohan and others, 2007 ACJ 1666.***

Counsel for the appellant has further made a vain attempt to argue that finding of Tribunal on issue No. 1 suffers from serious error as respondent No. 1 therein cannot be attributed sole negligence for the accident.

I have heard counsel for the appellant and perused the paper book particularly the award impugned.

The appellant was impleaded as one of the respondents being registered owner of the offending vehicle. Counsel has not disputed that on the date of occurrence i.e. 31.07.2013, offending vehicle stood registered in his name. The registered owner cannot be exonerated of his liability to pay compensation unless he is able to prove that he had sold the vehicle and has even complied with the requirements of Section 50 of the Motor Vehicles Act, 1988. In this context, reference can be made to judgment of Hon'ble the Supreme Court ***Pushpa alias Leela and others v. Shakuntala and others 2011 AIR (SC) 682.*** A relevant extract from para 14 of the judgment is quoted hereunder:-

*“The decision in T.V. Jose (Dr.) was rendered under the Motor Vehicles Act, 1939. But having regard to the provisions of Section 2(30) and Section 50 of the Act, as noted above, the ratio of the decision shall apply with equal force to the facts of the case arising under the 1988 Act. On the basis of these decisions, the inescapable conclusion is that Jitender Gupta, whose name continued in the records of the registering authority as the owner of the truck was equally liable for payment of the compensation amount. Further, since an*

*insurance policy in respect of the truck was taken out in his name he was indemnified and the claim will be shifted to the insurer, Oriental Insurance Company Ltd.”*

The judgment relied upon by the appellant *HDFC Bank Limited's* case (supra) has got no bearing on the case at hand. In the referred authority, the owner entered into hypothecation agreement with the Bank and the Bank was registered owner along with borrower. The borrower was in control and possession of vehicle and he plied the vehicle without insuring it and met with an accident. In the circumstances, Hon'ble the Apex Court held that where a motor vehicle is the subject of hire-purchase agreement or an agreement of lease or an agreement of hypothecation, the person in possession of vehicle under that agreement is the owner. Counsel for the appellant is not in a position to draw similarity between facts of the case at hand and that of the referred authority to substantiate his contention that appellant can be exonerated of his liability to pay compensation.

So far as challenge to assessment of compensation is concerned, the Tribunal has assessed income of the deceased by treating him as a skilled worker, at the rate of Rs.6,290.00 per month. Perusal of the findings recorded in para 20 of the award would clearly indicate that there is no convincing evidence adduced by the claimants to prove that the deceased was working as an Accountant with a transport company much less on a salary of Rs.12,000.00 per month. As such, the deceased was to be treated as an unskilled person. In the light of notification issued by the State of Haryana with regard to minimum wage available to an unskilled worker at the relevant time, income of the deceased is assessed at Rs.5,350.00.

The Tribunal has not allowed benefit of increase in income for future prospects. Compensation awarded under conventional heads is also not in consonance with the judgments of Hon'ble the Supreme Court of India *Rajesh and others v Rajbir Singh and others 2013(3) R.C.R. (Civil) 170* and *Vimal Kanwar and others v. Kishore Dan and others, (2013) 7 SCC 476*. By taking into consideration minimum wage of an unskilled worker, extending benefit of future prospects and allowing adequate compensation under conventional heads, compensation that becomes payable would be more than what has been assessed by the Tribunal. In view of the above, interference in assessment of compensation is not warranted. However, it is clarified that in case an appeal is filed by the claimants, observations recorded by this Court for the purpose of disposing instant appeal would not cause prejudice to their rights to seek enhancement, if otherwise permissible.

Counsel for the appellant is not in a position to point out any material on record to substantiate his contention that the deceased, in any manner, attributed in causing the accident or the present is a case of contributory negligence. As such, contention of counsel for the appellant to assail findings of the Tribunal on issue No. 1 is misconceived and liable to be rejected.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

16.08.2017

mohan bimbira

(Rekha Mittal)

Judge

Whether speaking/reasoned: Yes/No  
Whether reportable : Yes/No