

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

FAO No.4840 of 2017 (O&M)

Date of decision: 13.07.2017

Pepsu Road Transport Corporation, Patiala

.....Appellant

Versus

Balbir Kaur and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anupam Singla, Advocate,
for the appellant.

Mr. Madan Sandhu, Advocate,
for respondent Nos. 1 and 2.

Ritu Bahri, J.

CM No.14533-CII of 2017

In view of the averments mentioned in the application, same is allowed and delay of 161 days in filing of the appeal is condoned.

FAO No.4840 of 2017

Pepsu Road Transport Corporation, Patiala-appellant has filed this appeal against the Award dated 15.09.2016 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal'), whereby compensation to the tune of Rs.11,45,000/- has been awarded to claimants (respondent Nos. 1 and 2 herein) on account of death of Gurbachan Singh in a motor vehicle accident, which took place on 06.03.2008.

Brief facts of the case are that on 06.03.2008, at about 7:45 P.M., deceased-Gurbachan Singh along with his friend Manjit Singh was going on foot to meet their friend Harsharan Singh Walia. When they reached near Panchayat Bhawan adjacent to Gurdwara Dukh Niwaran Sahib, Patiala, and

tried to cross the road, a bus bearing registration No.PB-11-AF-8559 being driven by Nirbhey Singh-respondent No.3 (respondent No.2 in the claim petition) in a rash and negligent manner, struck against Gurbachan Singh, as a result of which, he fell down on the footpath and received injuries. Driver of the offending vehicle ran away after leaving the bus at the spot. After the accident, Gurbachan Singh was taken to Rajindera Hospital, Patiala by Manjit Singh and other persons, however he was declared dead by the doctors. With regard to the accident, FIR under Sections 279, 304-A IPC was registered at Police Station, Civil Lines, Patiala, at the instance of Manjit Singh. Consequently, claimant-respondent Nos. 1 and 2 filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal has returned a finding on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending bus by Nirbhey Singh-respondent No.3 (respondent No.2 in the claim petition), as a result of which, Gurbachan Singh received injuries and died. This finding is rightly based on the deposition of Manjit Singh (PW-5), who was an eye witness of the accident and had reiterated the version given in claim petition. FIR (Ex.P4) was registered at the instance of Manjit Singh.

In the absence of any cogent evidence regarding income, the Tribunal had assessed the compensation by taking the income of deceased as Rs.20,000/- per month (Rs.2,40,000/- per annum) by treating him to be a skilled labourer, as he was staying in Virginia (USA). Date of birth of the deceased was 02.02.1947 and at the time of his death, he was 61 years of age. Therefore, multiplier of 7 was applied, which came to be Rs.16,80,000/- (Rs.2,40,000/- x 7). Out of this amount, 1/3rd was deducted as personal

expenses of the deceased. Accordingly, total dependency came to be Rs.11,20,000/- (16,80,000 – 5,60,000). In addition to it, Rs.25,000/- were awarded towards transportation and last rites of deceased. Ultimately, the claimants were held entitled to compensation to the tune of Rs.11,45,000/- along with interest at the rate of 9% per annum from the date of filing of the petition till its realization.

Feeling dissatisfied with the impugned award, the appellant-corporation has preferred the present appeal.

Learned counsel for appellant-corporation has assailed the impugned Award on the ground that the Courts at Karnal did not have the jurisdiction to entertain the claim petition, as the accident had taken place at Patiala. It has been argued that earlier, the claimants had filed a claim petition through their General Power of Attorney namely, Charanjit Singh Bajaj, at Patiala. However, at the stage of evidence, the said petition had been withdrawn with liberty to file fresh one, as the said power of attorney was not embossed in India. Thereafter, they filed the second claim petition through another General Power of Attorney namely Sh. Bhupender Singh, at Karnal. It has been further argued that age of the deceased, at the time of accident, was 65 years and his income has been assessed as Rs.20,000/- per month, which is on the higher side.

I have heard learned counsel for the appellant and perused the case file.

The arguments raised by learned counsel for appellant-corporation are not tenable in the eye of law. Although deceased-Gurbachan Singh was an NRI, yet his permanent address was at Karnal. Hence, the Courts (MACT) at Karnal had the jurisdiction to entertain the claim petition filed

by the claimants at Karnal. Furthermore, income of the deceased has been assessed keeping in view the fact that he was residing in USA. Therefore, the same was not on the higher side.

Resultantly, having examined the impugned Award, no ground is made out to interfere therein.

Dismissed.

13.07.2017
ajp

(RITU BAHRI)
JUDGE

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