IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.932 of 1992 (O&M)
Date of Decision: March 06, 2018

Delhi Transport Corporation ...Appellant
Versus
Manjeet Kaur and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.V.Ramswaroop, Advocate for the appellant.

None for the respondents – claimants.

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HARINDER SINGH SIDHU, J.

The Delhi Transport Company, owner of Bus No.DL-1P-9033 (hereinafter referred to as 'the offending vehicle) has filed the present appeal challenging the awards dated 17.03.1992 passed by the Motor Accident Claims Tribunal, Kurukshetra (for short 'the Tribunal').

Brief facts as disclosed in the claim petition are that on 28.7.1991, Satwant Singh was coming from the side of Pipli on Hero Honda Motorcycle No.HR-01-8683. When he reached at Barara Chowk on G.T.Road, Shahabad(M) and had almost crossed the road, the offending vehicle being driven in a rash and negligent manner by respondent Rajinder Singh, came from the side of Ambala and struck against the motorcycle. Satwant Singh was dragged by the offending vehicle to a considerable distance. He received multiple injuries and succumbed to the same. The motorcycle was also damaged in the accident. The accident was alleged to have been caused due to rash and negligent driving of the offending vehicle. FIR regarding the accident was also registered.

On a claim petition filed by the legal representatives of deceased Satwant Singh, the Tribunal assessed the income of the deceased at Rs.4500/- per month, deducted 1/3rd towards his personal expenses, applied the multiplier of 16 (deceased aged 36 years). The claimants were awarded compensation of Rs.5,76,000/- (3000x12x16) for the death of Satwant Singh.

Ld. Counsel for the appellant – Delhi Transport Corporation has challenged the award of compensation on two counts – firstly, that negligence of the driver of the offending bus was not proved and secondly, the assessment of the income of the deceased @ 4500/- per month is on higher side.

Regarding the negligence, the Tribunal had framed the following issue:

> *"i) Whether the alleged accident took place due to rash and negligent driving of respondent No.1, if so to what effect? OPP"*

Gurbaksh Singh, father of deceased Satwant Singh stepped into the witness box as PW2 and stated that at the time of accident, he along with one Yog Raj was coming from Markandeshwar Temple. There was a fair (*mela)* on the GT Road in Markandeshwar Temple. When they reached near Barara chowk, the offending vehicle belonging to DTC was seen coming from Ambala side and driven in a rash and negligent manner. His son was on the motorcycle. The offending vehicle hit against the motorcycle and dragged Satwant Singh for about 70-80 feet. He also stated that the deceased was on his left side of the road and had almost crossed the chowk.

This witness also proved on record the copy of the FIR Ex.P1 and stated that respondent Rajinder Singh was facing trial for causing the accident.

It is well-settled that requirement of proof in a MACT case is not as stringent as in a criminal case.

In view of the above, the finding of the Tribunal that the accident was caused due to rash and negligent driving of the offending bus is affirmed.

Now, coming to the assessment of the income of the deceased, the case set up by the claimants was that the deceased was employed as Technical Supervisor with M/s Unibros Builders, Shahabad Markanda. He was also running his own Saw Mill at Shahabad and was also having a share in M/s Dashmesh Timber Store. From all these sources, he was claimed to have earnings of Rs.10,000/- per month.

To prove the income of the deceased, the claimants examined PW1 Manjit Kaur (wife of the deceased), PW2 Gurbax Singh (father of the deceased), PW3 N.K.Aggarwal, PW4 Kulwant Singh (brother of the deceased) and PW5 K.L.Sharma. PW3 and PW5 proved that Satwant Singh used to work as Technical Supervisor in M/s Unibros Builders. PW3 stated that in the said firm K.L.Sharma (PW5) and one Ram Narain Madan were the partners. He also proved on record the salary certificate Ex.P3 and also identified the signatures of K.L.Sharma and Ram Narain Madan. PW5 K.L.Sharma stated that he knew deceased Satwant Singh for more than four years, who was working in their firm M/s Unibros Builders on a monthly salary of Rs.2000/- plus Rs.500/- as house rent for the last two years. This witness also identified the signatures of his partner Ram Narain Madan on

Ex.P3 (salary certificate). On the basis of this evidence, the Tribunal concluded that the deceased was earning Rs.2500/- per month from the aforesaid firm.

The documents Ex.P4 to P7 tendered in evidence pertaining to Saw Mill at Shahabad did not inspire confidence and the Tribunal held that the deceased was not having any income from this Saw Mill.

As regards the income from M/s Dashmesh Timber Store, receipt Ex.P7/1 regarding deposit of licence fee for the year 1991-92 was placed on record, which stated that deceased Satwant Singh was its sole proprietor. A certificate issued by the Assistant Excise and Taxation Officer, Shahabad was also placed on record as Ex.P8 showing that the deceased was holder of R.C.No.KHK IV/8613 w.e.f. 3.3.1985. Another certificate Ex.P9 issued by the same authority stated that the firm filed returns of Rs.55,771.25, Rs.89,723.26 and Rs.98,4567.00 for the years 1988-89, 1989-90 and 1990-91, respectively. Considering the sale in the year 1990-91 to the tune of about Rs.1,00,000/-, the Tribunal assessed that the deceased must have been earning at least Rs.2000/- per month from there.

In view of the above, there is no ground to disturb the findings of the Tribunal, either on the issue of negligence or on the assessment of compensation.

Accordingly, the appeal is dismissed.

March 06, 2018 **(HARINDER SINGH SIDHU)**
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No