

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

FAO-1960-1996 (O&M)
Date of decision: 08.01.2018

SMT. MANGO AND ANOTHER ...Appellants

Versus

JANTA RAM AND OTHERS ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. R.S. Mamli, Advocate
for the appellants.

Respondent No.1 already ex-parte.

Mr. Deepak K. Sharma, Advocate
for respondent No.4.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Ram Dia in a motor vehicular accident that took place on 07.11.1991.

The Tribunal has awarded compensation to the tune of Rs.25,000/- on the principle of 'No Fault Liability'.

Counsel for the appellants failed to file complete particulars of respondent No.2 since 18.08.2015, despite expiry of more than two years. As a consequence, appeal against respondent No.2 is ordered to be dismissed.

Counsel for the appellants has submitted that liability to pay

compensation has been fastened upon respondents No.1 and 2, therefore, even if the appeal against respondent No.2 has been dismissed the same needs to be heard qua respondent No.1, driver of the offending vehicle. It is argued that Tribunal has accepted plea of the claimants that accident was caused due to rash and negligent driving of truck No.PBV-1227 but still allowed compensation of Rs.25,000/- under 'No Fault Liability'. It is argued with vehemence that the Tribunal evidently shirked from its responsibility to assess just and reasonable compensation qua death of Ram Dia who was 16½ years old at the relevant time. It is further argued that reasonable compensation may be allowed in the light of catena of judgments on the issue.

Counsel for respondent No.4 would urge that respondent No.4 has not been fastened with liability to pay compensation, therefore, he has nothing to submit in the matter except to say that findings of the Tribunal exonerating respondent No.4 may be affirmed.

I have heard counsel for the parties, perused the paper book particularly the award.

It is pertinent to mention at the outset that unfortunately records were burnt in a fire incident, therefore, evidence adduced before the Tribunal is not available for consideration and appreciation. However, perusal of paras 30 and 31 of the award would reveal that as per plea of the claimants, parents of deceased Ram Dia, deceased had been studying in a college in 10+1. The claimants did not produce on record any evidence

with regard to educational qualification of the deceased. However, the claimants have placed on record copy of a certificate issued by the Principal, Janta College Kaul, Kurukshetra with regard to deceased being a student of 10+1. Counsel for the claimants has made available an attested copy of matriculation certificate of Ram Diya with regard to his having passed matriculation examination in May/June, 1991. Taking into consideration the minimum wage of an unskilled worker coupled with educational qualification of the deceased, monthly income of the deceased is assessed at Rs.1200/- per month. After applying deduction to the extent of 50%, multiplier of 18 and increase in income for future prospects to the extent of 40%, loss of dependency comes to Rs.1,81,440/- (Rs.1200 x 12 x 18 + 40% (future prospects) – 50% (deduction for personal expenses)).

The claimants shall be entitled to an amount of Rs.10,000/- for expenses on funeral. The total compensation comes to Rs.1,91,440/- and the additional amount is Rs.1,66,440/- (1,91,440 – 25,000), payable with interest @ 6% per annum from the date of petition till realization.

For the foregoing reasons, appeal filed by the claimants is partly allowed and liability to pay additional compensation would be of respondent No.1 only.

Disposed of accordingly.

08.01.2018

ashok

Whether speaking/reasoned:
Whether reportable:

(REKHA MITTAL)
JUDGE

Yes / No
Yes / No