

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. FAO-5978-2010 (O&M)

Paramjit Kaur and others

..... Appellants

Versus

Sohan Lal

..... Respondent

2. FAO-5979-2010

Paramjit Kaur and others

..... Appellants

Versus

Saranjit

..... Respondents

Date of decision: 08.05.2018

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Yashdeep Nain, Advocate for
Mr. Kuldeep Tiwari, Advocate
for the appellants (in both cases).

None for the respondent(s).

RAMENDRA JAIN, J. (ORAL)

1. Through this common judgment, above titled two appeals are being disposed of filed by the legal heirs of deceased-Gopal Dass, owner and driver of the offending Tata Sumo bearing registration No. RJ-13C-7056, for setting aside the impugned Award dated 30.07.2010, of the Motor Accident Claims Tribunal, Kurukshetra (for short-'the Tribunal') to the extent of holding the liability of deceased owner and driver of the offending Tata Sumo to make payment of compensation awarded to the claimant-respondent(s) namely; Sohan Lal and Sarajnit.

2. Learned counsel for the appellants contends that the learned Tribunal, has committed a grave error by ignoring the fact that liability of the legal heirs of deceased owner of the offending Tata Sumo could not have been fastened beyond the value of the property which they had inherited from deceased-Gopal Dass. No evidence was led by the respondent-claimants as for how much value, the appellants as legal heirs of deceased-Gopal Dass had inherited the property or assets from him. Therefore, no liability to pay the amount of compensation could have been fastened upon them.

3. Having given considerable thought to the submissions of learned counsel for the appellants, I find merit in both the appeals for the reasons to follow:

4. Undisputedly, the owner and driver of the offending Tata Sumo, was deceased-Gopal Dass. The claimants (respondents herein) before the Tribunal, by impleading the appellants as legal heirs of Gopal Dass, aforesaid had filed their respective claim petitions under Section 166 of the Motor Vehicles Act. However, they did not lead any evidence for how much value the legal heirs of the deceased, had received assets or property from their deceased husband and father-Gopal Dass.

5. Appellants No. 2 and 3 were minors at the time of filing of the claim petitions, whereas appellant No. 1 is the widow of deceased-Gopal Dass. The learned Tribunal, over-looking this aspect of the matter, granted compensation to the tune of ₹ 83,000/- to respondent-Sohan Lal (in FAO-5978-2010) and ₹ 66,000/- to respondent-Saranjit (in FAO-5979-2010), against the injuries suffered by them. Since, there was no iota of evidence on record about the inheritance of any property or valuable assets by the

appellants being legal heirs of deceased-Gopal Dass, therefore, no liability of them could have been fixed by the learned Tribunal to pay the amount of compensation, beyond the value of offending Tata Sumo, which they might have got in inheritance. The value of offending Tata Sumo has also not come on record. Therefore, the learned Tribunal, instead of fastening any liability upon the appellants-LRs of deceased-Gopal Dass (driver and owner of the offending Tata Sumo), ought to have ordered the recovery of compensation by selling/auctioning the offending Tata Sumo.

6. In both these appeals respondent-claimants have gone un-represented. It is not ascertainable from the record as to whether the offending Tata Sumo, is in existence or has been sold by the appellant or has outlived its utility.

7. In view of the discussion above, both the appeals are accepted with a direction to the Registry, to send ₹ 50,000/- deposited by the appellants before this Court i.e. ₹ 25,000/- against each appeal to the learned Tribunal, for onward disbursement to respondent-claimants in equal shares i.e. ₹ 25,000/- each towards their full and final claim.

May 08, 2018

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(RAMENDRA JAIN)

JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No