IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2734 of 2013 (O&M)
Date of decision: 31.07.2018.

Bimla and others

...Appellants

Versus

Naseem and others

....Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Surender Saini, Advocate for the appellants.

None for respondent No.1.

Mr. Amit Kumar Goyal, Advocate for respondent No.2.

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LISA GILL, J.

Appellants/claimants have filed this appeal seeking enhancement of the compensation awarded to them by learned Motor Accident Claims Tribunal, Sonepat (`Tribunal' for short) in award dated 21.12.2012 on account of death of Gulab Singh in a motor vehicle accident.

Brief facts necessary for adjudication of the case are that, the claimants filed a petition under Section 166 of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of Gulab Singh, who lost his life in a motor vehicle accident which took place on 29.03.2008 due to the rash and negligent driving of the offending vehicle by its driver/respondent No.1. The said vehicle was not insured. Respondent No.2 is the registered owner of the offending vehicle. Learned Tribunal concluded that Gulab Singh had lost his life due to the rash and negligent driving of the vehicle in question by respondent No.1. There is no dispute regarding the above said finding of the learned Tribunal on this issue, which has attained finality. Age of the deceased Gulab Singh was 32 years at the time of his death. He was employed as Peon with the Superintendent of Police, Baghpat.

Learned Tribunal on the basis of the salary certificate (Ex.P4) concluded that the deceased was receiving a salary of Rs.6000/-. Deduction of 1/3rd was applied. After applying a multiplier of 15, total dependency was assessed at Rs.8,10,000/-. Another sum of Rs.10,000/- was awarded for funeral expenses and loss of estate, besides, Rs.10,000/- for loss of consortium. The claimants were held entitled to Rs.8,30,000/- as compensation.

Learned Tribunal, however, observed that the vehicle in question had been sold by respondent No.2 to one Sultan Singh, who was not impleaded as a party. Respondents No.1 and 2 were held liable to pay the compensation to the claimants/appellants jointly and severally to the extent of 50% only. Aggrieved therefrom, this appeal has been filed.

Learned counsel for the appellants argues that compensation awarded to the appellants needs to be enhanced. Multiplier of 16 is required to be applied. No increase on account of future prospects has been afforded, though it is not in dispute that the deceased was a Government employee. Compensation under the conventional heads, it is stated, is also required to be enhanced.

Learned counsel for the appellants further submits that the Tribunal has fallen in error in directing respondents No.1 and 2 to pay compensation to the appellants only to the extent of 50%. Once it is proved on record that respondent No.2 is the registered owner of the vehicle in question, therefore, he is liable to pay the entire amount of compensation. It is thus prayed that this appeal be allowed.

Learned counsel for respondent No.2 refuted the above said arguments while submitting that the impugned award has been correctly passed. Respondent No.2 has specifically proved that he had sold the vehicle in question at the relevant time. One Sultan Singh was in possession of the vehicle in question. Therefore, respondent No.2 cannot be burdened with the entire liability. It is, however, not in dispute that no appeal has been filed by respondent No.2.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Hon'ble Supreme Court in **Naveen Kumar Vs. Vijay Kumar and others *2018 (2) RCR (Civil) 74*** has held that the registered owner of the offending vehicle is liable to pay compensation even though the vehicle in question has been further sold or transferred to any person. Relevant para of above judgment is reproduced as under: -

> "The consistent thread of reasoning which emerges from the above decisions is that in view of the definition of the expression 'owner' in Section 2(3), it is the person in whose name the motor vehicle stands registered who, for the purposes of the Act, would be treated as the 'owner'. However, where a person is a minor, the guardian of the minor would be treated as the owner. Where a motor vehicle is subject to an agreement of hire purchase, lease or hypothecation, the person in possession of the vehicle under that agreement is treated as the owner. In a situation such as the present where the registered owner has purported to transfer the vehicle but continues to be reflected in the records of the registering authority as the owner of the vehicle, he would not stand absolved of liability. Parliament has consciously introduced the definition of the expression 'owner' in Section 2(30),

> making a departure from the provisions of Section 2(19) in the earlier Act of 1939. The principle underlying the provisions of Section 2(30) is that the victim of a motor accident or, in the case of a death, the legal heirs of the deceased victim should not be left in a state of uncertainty. A claimant for compensation ought not to be burdened with following a trail of successive transfers, which are not registered with the registering authority. To hold otherwise would be to defeat the salutary object and purpose of the Act. Hence, the interpretation to be placed must facilitate the fulfilment of the object of the law. In the present case, the First respondent was the 'owner' of the vehicle involved in the accident within the meaning of Section 2(30). The liability to pay compensation stands fastened upon him. Admittedly, the vehicle was uninsured. The High Court has proceeded upon a misconstruction of the judgments of this Court in Reshma and Purnya Kala Devi."

Therefore, it is clear that respondents No.1 and 2 jointly and severely are liable to pay the entire compensation and not only to the extent of 50% as directed by the learned Tribunal.

Age of the deceased i.e. 32 years is not in dispute. Income has been correctly assessed at Rs.6000/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009, 50% increase has to be afforded on account of future prospects. Claimants are entitled to Rs.15,000/- each for loss of estate and funeral expenses besides Rs.40,000/- to the claimant widow for loss of consortium.

Deduction of 1/3rd on account of personal expenses is justified. However, multiplier of 16 instead of 15 has to be applied (age of deceased being 32 years at the time of accident) in view of Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, *2009(3) RCR (Civil) 77*.

Appellants-claimants are, thus, entitled to compensation which is re-worked as under:-

Sr.No.	***Heads of Claim***	***Amount***
1.	Income	6000 p.m. i.e., 72,000/- per annum
2.	Total income after addition at the rate of 50% on account of future prospects	72,000 **+** (72,000 **x 5**0%) = 1,08,000
3.	Income after deduction of 1/3rd on account of personal expenses	1,08,000 **–** (1,03,488 **x** 1/3) = 72,000
4.	Total dependency after applying a multiplier of 16	(72,000 **x** 16) = 11,52,000
5.	Loss of estate	15,000/-
6.	Loss of consortium to wife	40,000/-
7.	Funeral expenses	15,000/-
	Grand Total	Rs.12,22,000/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization. It is reiterated that the appellants are entitled to the entire compensation assessed and not just 50% thereof. Respondents No.1 and 2 are jointly and severally liable to pay the entire compensation.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the award dated 21.12.2012, present appeal is disposed of.

(LISA GILL)
JUDGE

July 31, 2018
Ishwar

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No