

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2395-2014 (O&M)
Date of decision: 20.02.2018

Raj Rani & ors.

... Appellants

VS

Raman Pal Singh & ors.

... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. C.S.Singh, Advocate
for the appellants.

Mr. M.B.Jain, Advocate
for respondent No.3.

Hari Pal Verma, J.(Oral)

The claimants-appellants have filed the present appeal for enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Patiala (in short 'the Tribunal') vide award dated 20.02.2014.

The claimants have filed the claim petition under Section 166 of Motor Vehicles Act, 1988 for grant of compensation on account of death of Charanjit Singh s/o Sher Singh, who died in a road-side accident, which took place on 20.01.2013.

As per the claim petition, on 20.01.2013, Charanjit Singh was going on Aviator bearing registration No.PB-11-AW-4083 from Urban Estate, Patiala towards Punjabi University, Patiala. He was on left side of the road and at normal speed. When he reached the main gate opposite Radha Swami Satsang Bhawan on the Patiala Rajpura Road, in the meantime, a Fortuner car bearing registration No.PIP-74 came from Patiala side, which was being driven by its driver in rash and negligent manner.

The offending vehicle struck against the vehicle of the deceased. As a result thereof, deceased Charanjit Singh fell down on the road and received multiple and serious injuries. He was taken to Rajendra Hospital, Patiala from where he was shifted to Amar Hospital, Patiala, but he succumbed to the injuries suffered by him in the accident.

FIR No.14 dated 21.01.2012 was registered by Rajwinder Bhasin – claimant/appellant No.3, who is son of the deceased at police station Urban Estate, Patiala. It is stated that the deceased was a retired Superintendent from Punjabi University, Patiala and was getting pension of Rs.22,475/- per month. In addition thereto, he was imparting tuitions and was earning Rs.10,000/- per month. As such, total income to the deceased was Rs.32,475/- per month.

The Tribunal has returned a finding of fact that the deceased died in the accident on account of rash and negligent driving of respondent No.1 driver of the offending vehicle bearing registration No.PIP-74, however, on the issue of quantum of compensation, the Tribunal has awarded total compensation of Rs.2,72,000/-. While awarding the aforesaid compensation the Tribunal has considered the deceased to be an ordinary labourer and assessed his income as Rs.5,000/- per month and an amount of Rs.3,000/- per month was considered as dependency of the claimants.

Learned counsel for the claimants has argued that deceased was a retired Superintendent of Punjabi University, Patiala and at the time of death, he was drawing pension of Rs.22,475/- per month and was also earning a considerable amount while giving tuition. In support of their claim, the claimants have placed on record the Pension Certificate Ex.P5, but the same was not proved and therefore, this evidence was not sufficient

for the Tribunal to assess the compensation on account of death of deceased Charanjit Singh.

On the other hand, learned counsel for respondent No.3 has argued that on the basis of available evidence as adduced by the claimants, the Tribunal has already awarded adequate compensation on account of death of Charanjit Singh. He was about 65 years of age. Since the claimants have not proved the Pension Certificate Ex.P5 in accordance with law, no benefit can be given to the claimants for the purpose of assessment of compensation.

I have heard learned counsel for the parties.

The averments made in the claim petition cannot be ignored, but at the same time, it was incumbent upon the claimants to prove their case beyond all probabilities so as to claim compensation under Section 166 of the Motor Vehicles Act. Although the claimants have produced the Pension Certificate Ex.P-5 but the same was not proved in accordance with law by examining the authorities, who issued the certificate. No employee from the Punjabi University, Patiala was examined from where the deceased had retired. This Court finds that the income of the deceased cannot be simply ignored, more particularly when the claimants have placed on record Pension Certificate Ex.P-5 though the same had to be proved in accordance with law. Since the document Ex.P-5 was taken on record, this Court finds that some weightage must be given to the Pension Certificate. Therefore, this case is remanded back to the Tribunal to re-apprise the document Ex.P5, which the claimants shall prove in accordance with law. The Tribunal shall pass a fresh award in the light of Pension Certificate Ex.P-5.

It is made clear that during the proceedings, where the

claimants are required to prove the Pension Certificate Ex.P-5, the insurance company shall be given ample opportunity to prove their case as well.

Parties are directed to appear before the learned Tribunal on 23.03.2018.

20.02.2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No