

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

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FAO No.1876 of 2015 (O&M)

Date of decision: 21.09.2018

PEPSU ROAD TRANSPORT CORPORATION

... Appellant

Versus

RAM SINGH & ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Anupam Singla, Advocate for the appellant.

Mr. Arvind Kashyap, Advocate for respondents No.1 to 3.

REKHA MITTAL, J. (Oral)

CM-5722-CII-2015

Heard.

Allowed as prayed for. Delay of 61 days in filing the appeal stands condoned.

Main Case

The present appeal directs challenge against award dated 22.09.2014 passed by the Motor Accidents Claims Tribunal, Fatehgarh Sahib whereby compensation has been assessed on account of death of Baljinder Kaur in a motor vehicular accident that took place on 15.04.2009.

Counsel representing Pepsu Road Transport Corporation (hereinafter to be referred as 'the Corporation') would argue that the appeal has been preferred to assail the award primarily on two counts. The first submission made by counsel is that as per averments raised in claim petition noted in para 2 of the award, the deceased felt giddiness and took her head out of window of the bus when an unknown vehicle came from the opposite side and crushed head of the deceased. It is argued that no negligence in causing the occurrence can be attributed to driver of the bus in question, therefore, claimants are not entitle to get compensation.

Another submission made by counsel is that compensation

allowed by the Tribunal is much more than what can be allowed in consonance with the structured formula laid down in Second Schedule appended to Section 163-A of the Motor Vehicles Act, 1988 (in short 'the Act') as the application for compensation has been filed under Section 163-A of the Act.

Counsel representing the claimants has supported the award both on the question of liability of the Corporation as well as quantum of compensation.

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

The plea of claimants is that Baljinder Kaur (since deceased) along with her father Dalbara Singh was a passenger in bus No.PB-11-H-9790 when the occurrence in question took place. In an application for compensation under Section 163-A of the Act, the question of rashness and negligence is neither required to be pleaded nor proved. However, it has been established that Baljinder Kaur sustained injuries out of use of motor vehicle i.e. bus No.PB-11-H-9790. That being so, contention of the appellant that claimants are not entitle to get compensation is not meritorious and accordingly rejected.

The Tribunal has awarded compensation of Rs.10,24,500/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.5000/-
2. Multiplier	17
3. Loss of dependency	Rs.10,20,000/-
4. Expenses on funeral	Rs.2000/-
5. Loss of estate	Rs.2500/-

The Tribunal, without appreciating and examining that claim for compensation under Section 163-A of the Act is maintainable only if income of the deceased is less than Rs.40,000/- per annum has awarded compensation by assessing income @ Rs.5000/- per month. Under the circumstances, value of services of the deceased is assessed at Rs.3300/- per month. After deducting 1/3rd towards personal expenses and applying multiplier of 18 available for the age group exceeding 25 but less than 30

years, loss of dependency is calculated at Rs.4,75,200/- [(Rs.3300 x 12 x 18) – (1/3rd deduction for personal expenses)].

The Tribunal has awarded a sum of Rs.4500/- under conventional heads and the same is modified to the effect that claimants shall be entitled to Rs.7000/-, detailed hereunder:-

- | | |
|-------------------------------------|-----------|
| 1. Loss of consortium to the spouse | Rs.5000/- |
| 2. Expenses on funeral | Rs.2000/- |

Total compensation is Rs.4,82,200/- and compensation awarded by the Tribunal is reduced to the extent of Rs.5,42,300/- (10,24,500 - 4,82,200). The appellant shall be entitle to recover the excess amount, if already paid, by filing an application before the Tribunal.

The appeal is partly allowed in the aforesaid terms.

21.09.2018

ashok

Whether speaking/reasoned:
Whether reportable:

(REKHA MITTAL)
JUDGE

Yes / No
Yes / No