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

**FAO No.3282 of 2014 with
XOBJC-170-CII-2014 (O&M)
Date of Decision: November 29, 2018.**

U.P. State Road Transport Corporation

**..........APPELLANT(s).**

**VERSUS**

Del Chand and others

**........RESPONDENT(s).**

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Sandeep Kotla, Advocate
for the appellant (s).

Mr. Rajiv Sharma, Advocate
for respondents No.1 to 6/cross-objectors/claimants.

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**SURINDER GUPTA, J.**

Motor Accident Claims Tribunal, Palwal (hereinafter referred to as 'the tribunal') vide award dated 12.02.2014 allowed compensation of ₹10,31,496/- for death of Hemant Kumar, son of claimants No.1 and 2 and brother of claimants No.3 to 6, in a motor vehicle accident with Bus bearing registration No.UP-85/U-9097 (later referred to as 'the offending vehicle').

The owner of the offending vehicle i.e. Uttar Pradesh State Roadways Transport Corporation filed appeal FAO No.3282 of 2014 challenging the award on the ground that tribunal has wrongly assessed income of the deceased as ₹5000/- per month as he was 17 years of age; instead of making deduction of 1/2 from the income of the deceased towards his personal expenses, the tribunal has made deduction of 1/3rd and applied the multiplier as per age of the deceased instead of applying the same as per age of his parents. The driver of the offending vehicle has stepped into witness box and specifically stated that no accident took place with the offending vehicle.

Claimants filed cross-objections seeking enhancement of compensation on the ground that deceased had a big family to support and the amount of compensation awarded by the tribunal for loss of consortium, loss of estate, last rites, transportation etc. are on lower side. The deceased had bright future prospects and used to work and help his father in agriculture work and was a student of Bachelor of Business Administration (BBA) 1st Semester.

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

Firstly, I take the plea raised by learned counsel for appellant-owner of offending vehicle in their grounds of appeal that death of Hemant Kumar in the motor accident with offending vehicle is not proved.

Learned tribunal on the basis of evidence before it, has concluded in para 10 of the award as follows:-

> "10. The evidence led by the petitioners-claimants proves the fact that the deceased was travelling in the bus and the accident was witnessed by Puran Lal present at that time at the bus stop and co-passenger PW3 Satbir. Now the FIR led in evidence is Ex.P1 without the name of driver and registration number of the offending vehicle. However, no suggestion has been given by learned counsel for respondents to the said

> witnesses how they came to know the registration number of the bus causing the present accident. However, petitioners have tendered final report under Section 173 Cr.P.C. Ex.PW4/A, certified copy of chargesheet Ex.PW4/B, release order Ex.PW4/C, recovery memo Ex.PW4/D, statement of Ravi Parkash and Chaggan Singh, which are Ex.P25 and Ex.P26. As per their statements Ex.P25 and Ex.P-26, they have admitted that on the relevant date, the accident was caused by respondent no.1. Both these officials are employed in U.P. Roadways and during investigation by the police, they suffered these statements admitting the involvement of offending bus which caused the accident at Banchari Bus Stop in which Hemant Kumar was travelling and died due to negligence of its driver namely Raj Kumar i.e. respondent no.1. Based on their statements, police arrested respondent no.1 and produced him in the court and he is now facing the trial as is evident from deposition of PW4 Praveen Rawat. The bus in question was taken into police possession in the present case as per recovery memo Ex.PW4/D."

The driver of the offending vehicle appeared as RW1 but on the basis of tickets mark-B, C and D issued to the passengers, it was held by the tribunal that Puran Lal witness was present in the bus at the time of accident. Ravi Parkash and Chaggan Singh officials of U.P. Roadways have also admitted the accident. In view of the evidence on record, I do not find any reason to differ with the findings recorded by the tribunal on this issue.

The deceased was about 16.5/17 years of age at the time of accident. He was studying in BBA 1st Semester in Aggarwal College, Ballabhgarh, Faridabad. He was eldest son in the family. The tribunal has taken his income as ₹5000/- per month by equating him with a daily wager. He is a person of much more skill than a daily wager. A person, who completes professional courses like BBA, has a bright future. Income of deceased at the time of his death, can be equated with daily wages of a highly skilled worker. The minimum wages as prescribed by the Haryana Government for highly skilled worker at that time was around ₹6,000/- per month. Same can be assessed for the deceased as well.

The tribunal has allowed 50% addition in the income of the deceased towards future prospects, which as per the law settled in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009***, is to be reduced to 40% and deduction from the income of the deceased towards his personal expenses is to be taken as 1/2. However, the multiplier of 15 as applied by the tribunal is to be enhanced to 18. The claimants are also entitled to compensation of ₹15,000/- each for loss of estate and funeral expenses.

In view of the above discussion, the compensation to which the claimants-respondents No.1 to 6/cross-objectors are entitled, is reassessed as follows:-

| *Sl.No.* | *Heads* | *Calculation* |
|---|---|---|
| (i) | Income of the deceased | ₹6000 per month |
| (ii) | 40% of above (i) to be added as future prospects | (₹6000+₹2400)= ₹8400 per month |
| (iii) | Deduction of 1/2 towards personal expenses of the deceased | (₹8400-₹4200)= ₹4200 per month |
| (iv) | Compensation after multiplier of 18 is applied | (₹4200X12X18)= ₹907200 |
| (v) | Loss of estate | ₹15000 |
| (vi) | Funeral expenses | ₹15000 |
| (vii) | Medical expenses as allowed by the tribunal | ₹101496 |
| *Total* | | ₹10,38,696/- |

As a result of my above discussion, the appeal filed by owner of the offending vehicle (FAO-3282-2014) has no merits and the same is dismissed. However, the cross-objections filed by claimants-respondents No.1 to 6 (XOBJC-170-CII-2014) are allowed. The award of the tribunal is modified and the compensation allowed to the claimants-respondents No.1 to 6 is enhanced from ₹10,31,496/- to ₹10,38,696/- for death of Hemant Kumar. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realisation. The amount of enhanced compensation shall be paid to Usha Rani, mother of deceased.

**( SURINDER GUPTA )**
**JUDGE**

**November 29, 2018.**
*Sachin M.*

***Whether speaking/reasoned:*** ***Yes/No***

***Whether Reportable:*** ***Yes/No***