

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

FAO No.9526 of 2014

Date of Decision: 14.05.2018

Sunil etc.

.....Appellants

Vs

Hakam Chand etc.

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. J.S. Rozera, Advocate
for the appellants.

Mr. R.C. Gupta, Advocate
for respondent No.3/Insurance Company.

RAJ MOHAN SINGH, J.

[1]. This appeal has been preferred by the appellants for enhancement of compensation against the award dated 30.07.2012 passed by the Motor Accident Claims Tribunal, Panipat (for short 'The Tribunal'), whereby claim petition filed by the appellants was accepted to the extent of awarding compensation to the tune of Rs.13,65,000/- for the death of Ram Kishan. The amount so awarded was ordered to be apportioned amongst claimants in the manner as shown in the relief clause. Respondents No.1 to 3 were held liable to pay the amount of compensation jointly and severally.

[2]. Accident took place on 16.08.2010 when Ram Kishan

was coming from Delhi to Panipat on his motorcycle. Om Parkash was also following him on motorcycle. When they reached in front of S.D. College at Fly-over, Panipat, offending vehicle/canter came from behind in a rash and negligent manner which was being driven by respondent No.1. Canter struck the motorcycle due to which Ram Kishan fell down and sustained grievous injuries on his person. Respondent No.1 fled away from the spot after leaving the canter. Ram Kishan succumbed to his injuries on 24.08.2010 when he was admitted in Sir Ganga Ram Hospital, Delhi.

[3]. FIR was registered against respondent No.1. The deceased was 38 years of age at the time of death and was transporter. His income was claimed to be Rs.13,000/- per month. The compensation was claimed to the tune of Rs.50,00,000/- by the claimants/appellants.

[4]. Under issue No.1, the Tribunal came to the conclusion that the accident in question took place due to rash and negligent driving of respondent No.1. Under issue No.3, the Tribunal concluded that respondent No.3 could not lead any evidence to prove that the vehicle in question was being driven without any proper driving licence or driving licence was fake or the vehicle was being driven in violation of any condition of insurance. Issue No.3 was decided against respondent No.3.

Under issue No.2, statements of PW 1 Om Parkash, PW 2 Sunil Devi, PW 3 Alic Masih and PW 4 Anil Kumar, Record Keeper, Prem Hospital were relied by the claimants in the context of documents Exs.P6, P7 and P9. The factum of Ram Kishan died on account of said injuries and amount incurred by the claimants/appellants towards treatment were sought to be proved by the claimants/appellants with the aforesaid evidence.

[5]. The Tribunal though referred to the aforesaid evidence, but the factum of expenses incurred by the claimants/appellants towards medical expenses/bills have not been considered by the Tribunal while parting with the judgment. The Tribunal only considered the factum of deceased being income tax assessee on the strength of income tax return for the assessment year 2009-10 and 2010-11 and assessed the income of the deceased as Rs.1,20,000/- per year. The computation was made in terms of income of the deceased, deduction towards self-expenses and dependency of the claimants/appellants and after applying multiplier of 15, the compensation was assessed to the tune of Rs.13,50,000/-. An amount of Rs.5000/- was awarded towards loss of consortium. An amount of Rs.10,000/- was awarded towards transportation of the dead body, funeral and last rites of the deceased. In this way, total amount of Rs.13,65,000/- was assessed as compensation in favour of the

claimants/appellants.

[6]. During course of arguments, on a pointed inquiry in respect of non-consideration of evidence towards medical bills, learned counsel for respondent No.3/Insurance Company could not dispute that the Tribunal has not considered the evidence led by the claimants/appellants towards medical expenses incurred by the claimants/appellants in the treatment of deceased Ram Kishan. The expenses incurred by the claimants/appellants were towards the medical bills paid to the hospital authority which have been proved by the witnesses. In any case, the aforesaid evidence has gone unanswered.

[7]. At this stage, without meaning anything on admissibility of the evidence or otherwise, I deem it appropriate to remand this case to the Motor Accident Claims Tribunal, Panipat only on the point of consideration of evidence towards medical expenses viz. statements of PW 1 Om Parkash, PW 2 Sunil Devi, PW 3 Alic Masih and PW 4 Anil Kumar, Record Keeper, Prem Hospital in reference to documents Exs.P6, P7 and P9. There is no necessity to disturb other findings recorded by the Tribunal.

[8]. For the reasons recorded hereinabove, impugned award dated 30.07.2012 passed by the Motor Accident Claims Tribunal, Panipat is partly modified to the extent of remanding

the case to the Tribunal on limited consideration of evidence led by the claimants/appellants towards medical expenses incurred in the treatment of deceased Ram Kishan. After considering the aforesaid documents i.e. Exs.P6, P7 and P9, the Tribunal shall pass afresh award in accordance with law.

May 14, 2018

Prince

Whether speaking/reasoned
Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No
Yes/No