IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 6726 of 2018 (O&M)
Date of decision : October 29, 2018

Pepsu Road Transport Corporation Limited .....Appellant

Versus

Ravari Devi and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Aman Sharma, Advocate
for the appellant.

***

LISA GILL, J.

This appeal has been filed by Pepsu Road Transport Corporation Limited challenging award dated 20.07.2018 passed by the learned Motor Accident Claims Tribunal, Ludhiana. Learned counsel for the appellant has impugned the quantum of compensation awarded to the claimants.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow and children of the deceased filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Mohan Parshad on 22.07.2017 in a motor vehicle accident caused due to driving of the offending vehicle bus bearing registration No. PB-10 FV-6519 by respondent No. 2 in a rash and negligent manner. It was averred that Mohan Parshad (deceased) alongwith respondent No. 1 was going for personal work on a motor cycle bearing registration No. PB-10DV-5059. Mohan Parshad was driving the motor cycle and respondent NO. 1 was riding pillion. When they reached near Sambhav Spinning Mill, Chandigarh, offending vehicle bus bearing registration No. PB-10 FV-6519 came from

Smarala Chowk, Ludhiana side at a very fast speed in a rash and negligent manner, without blowing horn and hit the motorcycle of Mohan Parshad from backside. As a result, respondent No. 1 fell towards one side while Mohan Parshad came under the bus. His face and head were crushed under the bus and he died at the spot. The deceased, aged 47 years at the time of the accident was stated to be getting a sum of ₹18,000/- per month as salary from Hero Cycle Limited and earning ₹30,000/- while working as electrician on private basis.

It is argued that the evidence on record does not point to the deceased Mohan Parshad earning a sum of ₹17,137/- and the learned tribunal has wrongly relied upon the statement of PW3 Shri Bhagwan, Deputy Manager, Hero Cycle Limited. There is nothing on record to show that PW3 was even authorised by the company in question to testify before the Court. Moreover, original records of the company reflecting the employment of Mohan Parshad were not produced. It is, thus, prayed that the learned Tribunal has grossly erred in assessing the income of the deceased as ₹17,137/-. In fact, minimum wages as available in the State at the time of the accident should have been taken to be the income of the deceased. Therefore impugned award dated 20.07.2018 be modified accordingly.

Heard learned counsel for the appellant and have gone through the photocopy of the record produced in Court today.

The claimants specifically pleaded that the deceased Mohan Parsad - husband and father of the claimants was working as an Electrician with Hero Cycles Limited, Ludhiana. It was pleaded that he was earning ₹18,000/- per month as salary from Hero Cycles Limited and he was also earning ₹30,000/- over and above the same by doing the work of a Electrician on a private basis. They proved the salary earned by the deceased on account of his employment with Hero Cycles Limited. PW3 Shri Bhagwan, Deputy Manager, Hero Cycles Limited was examined. The claimants examined PW4 Kamla Wati Chaudhary and PW5 Amarjeet Kaur to prove that the deceased had carried out electrical works at their residence. However, learned Tribunal disregarded the statements of PW4 and PW5 to accept the employment of the deceased with Hero Cycles Limited and assess the income of the deceased as ₹17,137/-.

I have perused the statement of PW3 Shri Bhagwan, Deputy Manager, Hero Cycles Limited. Contention that PW3 was not authorised by the company to testify is falsified inasmuch as Ex. P29 which is a certificate issued by the Hero Cycles Limited, reads as under:-

> " This is to certify that Mr. Shri Bhagwan S/o Sh. Ram Kishan Sharma is working in our organisation as a Dy. Manager (HR). He is authorised to submit details/information regarding working and salary, payslip of late Mr. Mohan Parsad s/o Ram Karan in court case Raveri Devi Vs. Pepsu Road Transport."

Argument that it was only computerised record on loose sheets, which was produced and, therefore, should not be accepted is equally untenable, hence rejected. PW3 Shri Bhagwan has specifically stated that deceased Mohan Prashad was working in their factory in the Electrical department as a skilled worker. The company has maintained the record of the employees, who were working. Pay slips (Exs. P30 and 31) of the deceased were produced and proved by PW3. To say that original salary record not having been produced and only computerised sheets being produced would render the said evidence inadmissible per se, is not correct. There is indeed nothing on record to indicate that the said record is forged or fabricated as is claimed by the appellant – PRTC. Pay slips (Exs. P30 and P31) reveal the break up of the salary received by the deceased. Learned counsel for the appellant is unable to point out any evidence on record to justify reduction in the income of the deceased as assessed by the learned Tribunal.

There is no illegality, infirmity or perversity in the impugned order dated 20.07.2018 which calls for any interference by this court in this appeal at the instance of the appellant – PRTC.

Present appeal is, accordingly, dismissed.

(Lisa Gill)
Judge

October 29, 2018
rts

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No