

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

F.A.O. No. 1621 of 1992

DATE OF DECISION :- November 18, 2019

Smt. Nirmala Devi and others

...Appellants

Versus

Krishan Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Balram Prashar, Advocate
for Mr. P.M. Anand, Advocate for the appellants.

Mr. Pradeep Kumar, Advocate for respondent No. 7.

Briefly stated the facts of the case are that on account of death of Sohan Lal, aged about 45 years, engaged in avocation of a Barber and earning Rs.1500/- per month therefrom, in a motor vehicular accident, which took place on 15.6.1990 at about 8.30 A.M., in the area of near Chandi Mandir, statedly on account of rash and negligent driving of Bus bearing registration No. HYX-1925 by respondent No. 1 Krishan Kumar and Bus bearing Registration No. HYX-2425 driven by respondent No. 2 Puran Bhagat, legal representatives of such deceased i.e. his widow Smt. Nirmala Devi, minor sons Davinder Kumar and Vijay Kumar, minor daughter Usha Rani and father Sh. Ram Sarup had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Krishan Kumar-driver of Bus bearing registration No. HYX-1925 and Puran Bhagat-driver of Bus bearing

registration No. HYX-2425, State of Haryana through General Manager, Haryana Roadways, Ambala- owner of both the buses, Naib Singh-driver of Truck No. PBP-7682 in which the deceased was travelling as well as Bihari Lal and Babu Ram-owners of that truck and New India Assurance Co. Ltd, Chandigarh-insurer of the truck.

After trial, the claim petition was accepted by Motor Accidents claims Tribunal, Ambala vide Award dated 13.1.1992 and compensation of Rs.1,15,200/- was awarded to the claimants No. 1 to 4 and liability of respondents No. 1 to 4 was fixed as 67% of and 33% as that of respondents No. 5 and 6 jointly and severally, with interest at the rate of 12% per annum from the date of filing of claim petition till actual realization. The amount was ordered to be apportioned equally among the claimants. Shares of minor claimants No. 3 to 4 was directed to be deposited with some nationalized bank for a period of two years. Whereas Ram Sarup was not found to be entitled to any compensation. Respondent No. 7 Insurance company was also not held to be liable to pay any compensation. Puran Bhagat, who had also filed a separate claim petition alleging that he had suffered injuries in the same accident which claim petition was tried along with main claim petition filed by Smt. Nirmala Devi and others but it was however dismissed.

Smt. Nirmala Devi and others were dissatisfied with the amount of compensation made payable by the Award and have approached this Court by way of filing an appeal, notice of which was given to the Insurance Company.

I have heard learned counsel for the parties besides going

through the record.

The Tribunal taking age of the deceased to be 45 years and his avocation as a Barber took monthly income from that profession as Rs.1500/-. The Tribunal had not added any amount towards future prospects whereas in terms of judgment '*National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009*' when the deceased was self employed and in age group of 40-50 years then addition of 25% is to be made. The Tribunal has deducted 3/5 of the amount towards personal and living expenses of the deceased. However, in terms of judgment "*Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(3)RCR Civil 77*" when number of dependent family members is up to 4 then 1/4th of the amount is to be deducted towards personal and living expenses of the deceased. Doing that dependency of the deceased comes out to Rs.1407/- per month. The annul dependency comes out to Rs.16,884/- (1407 x 12).

The Tribunal has used the multiplier of 16 whereas in view of "*Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(3)RCR Civil 77*" it should be 14. Therefore, the amount comes out to Rs.2,36,376/-(16,884 x 14) No amount has been awarded under conventional Heads. In view of ratio of '*National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009*' the claimants are entitled to get total 70,000/- under those Heads. Making addition to that amount the total compensation amount comes out to Rs.3,06,376/- (2,36,376 + 70,000).

The Tribunal has awarded compensation of Rs.1,15,200/-. In

that way, the additional amount of compensation comes out to Rs.1,91,176/- (3,06,376 – 1,15,200), which is awarded to the claimants. The liability to pay such compensation shall be joint and several for all the respondents. The amount of additional compensation shall be apportioned amongst the claimants in equal shares and they shall be entitled to get interest at the rate of 6% per annum from the date of filing of the petition till actual realization.

With such modification, the appeal is allowed partly.

(H.S. MADAN)
JUDGE

November 18, 2019

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No