

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

FAO-3506-1999(O&M)

Date of decision:-20.8.2019

Rajasthan State Road Transport Corporation, Jaipur

...Appellant

Versus

Smt.Chanderpati and others

...Respondents

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

Present: Mr.S.S. Behl, Advocate
for the appellant.

Mr.K.S. Dhanora, Advocate
for respondents No.1 to 4.

H.S. MADAAN, J.

CM-23206-CII-2016

This is an application for impleading legal representatives of respondent No.6 and for placing on record amended memo of parties.

Heard.

For the reasons mentioned in the application, the same stands allowed and legal representatives of respondent No.6 are brought on record. Amended memo of parties is taken on record.

FAO-3506-1999

On account of death of Bhup Singh in a motor vehicular accident, his legal representatives i.e. Smt.Chanderpati – wife, Baby Suman aged about 5 ½ years – daughter, Master Lalit aged about 4 years

– son, Baby Renu aged about 2 ½ years – daughter, the last three being minors through their mother and natural guardian, had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against the respondents i.e. Rajinder – driver, Rajasthan State Road Transport Corporation, Jaipur, Rajasthan – owner and insurance company of bus bearing registration No.RJ-10P/1441(hereinafter referred to as the offending bus), without disclosing the particulars of the insurance company as well as Urender – owner and New India Assurance Company Ltd., Hisar – insurer of TATA-407 bearing registration No.HR-39-1117 (hereinafter referred to as ill-fated TATA-407), claiming compensation.

According to the version of the claimants on 6.8.1997, the ill-fated TATA-407 driven by Bhup Singh – deceased was heading towards Devi Dayal Poultry Farm at village Muklan; that Satish Kumar and Har Sarup were also there in the said vehicle, which was being driven at a moderate speed and on the correct left hand side of the road; that at about 7:15 p.m. when the ill-fated TATA-407 had just crossed village Gangua and was near Devi Dayal Poultry Farm, then the offending bus being driven in a rash and negligent manner by its driver Rajinder – respondent No.1 came from behind and rammed into the ill-fated TATA-407 being driven by Bhup Singh; that Bhup Singh received serious and grievous injuries on the head and other parts of the body, whereas Har Sarup and Satish, who were sitting by his side had jumped out; that Bhup Singh died at the spot; that the matter was reported to the police and an FIR was registered.

According to the claimants, the deceased Bhup Singh was

aged about 31 years and was in employment of Urender – owner of TATA-407, getting Rs.3,500/- per month as salary and in addition to that he was getting Rs.30/- per day as diet money and Rs.50/- per day when he drove out of station; that the claimants were dependent upon his income.

Urender – owner of ill-fated TATA-407 had also filed a separate claim petition for claiming compensation on account of damage to ill-fated TATA-407. Both the claim petitions were tried together by Motor Accidents Claims Tribunal, Hisar.

Respondents No.1 and 2 had appeared and contested the claim petitions; though admitting the factum of accident but submitting that the deceased had suddenly applied brakes of ill-fated TATA-407 vehicle steering it towards the bus without raising any signal or blowing any horn and the accident had taken place due to his fault. Whereas respondent No.4 – owner of the ill-fated TATA-407 took a stand in consonance with the case of the claimants.

Issues on merits were framed. The parties were afforded adequate opportunities to lead evidence.

After hearing the arguments, the claim petitions were allowed partly by the Tribunal vide award dated 9.9.1999. Petitioners Smt.Chanderpati and others, who had filed Claim Petition No.181-MACT of 12.9.1997 were awarded compensation of Rs.3,90,000/- and petitioner Urender, who had filed Claim Petition No.200 MACT of 22.10.1997 was awarded compensation of Rs.5,000/- along with interest at the rate of 12% per annum from the date of filing of the petitions till final realization payable by respondents No.1 and 2 jointly and severally. The manner in

which the compensation was to be apportioned in Claim Petition No.181-MACT of 12.9.1997 was also given in the award.

This award left the respondent No.2 – owner of the offending bus aggrieved and it had approached this Court by filing the present appeal.

Notice of the appeal was given to the respondents and respondents No.1 to 4 have put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record and I find that there is no merit in the appeal.

The Tribunal on the basis of the pleadings of the parties and evidence adduced by them before it had returned the finding that respondent No.1 – Rajinder had caused the accident in which Bhup Singh suffered injuries to which he succumbed at the spot, due to rash and negligent driving of the offending bus and the version of the respondents that Rajinder was not at fault and the accident had taken place due to fault of the deceased was rejected. The Tribunal had taken into consideration the fact that an FIR regarding the accident was registered against respondent No.1 – bus driver, who was facing trial in that regard before Additional Chief Judicial Magistrate, Hisar and he had not made any complaint regarding his alleged false implication in the criminal case to his higher authorities or to the police or civil administration. PW Satish had provided the ocular version of the incident deposing in consonance with the case of claimants. The version given by respondent No.1 in terms of the stand taken by respondents in the written statement was rightly rejected by the Tribunal and no fault can be found with such approach of

the Tribunal. The Tribunal had held respondent No.1 being driver and respondent No.2 being owner of the offending bus to be liable to pay compensation to the legal heirs of the deceased Bhup Singh. While calculating the compensation, the Tribunal had taken age of the deceased to be 31 years and assessing his monthly income to be Rs.3,000/- per month besides daily allowance, 1/3rd amount was deducted towards personal expenses and then dependency of the claimants was assessed to be Rs.2,000/- per month, adopting multiplier of 16, the compensation was calculated to be Rs.3,84,000/-; a sum of Rs.6,000/- was awarded towards funeral expenses. The amount so assessed can certainly be not taken to be on higher side.

It may be mentioned here that the claimants were also not satisfied with the amount of compensation awarded to them by the Motor Accidents Claims Tribunal, Hisar and they had approached this Court by way of filing an appeal. That FAO No.3385 of 1999 was decided by a Co-ordinate Bench of this Court on 19.3.2014 and compensation was rather enhanced, granting Rs.1,00,000/- on account of loss of love and affection and for loss of consortium to appellant No.1 – widow and Rs.50,000/- each to appellant Nos.2 and 4 – daughters and Rs.25,000/- to appellant No.3 – son on account of loss of love and affection and parental guidance. 50% of the amount was added towards future prospects, whereas a sum of Rs.10,000/- was given as funeral expenses. Admittedly, no Special Leave Petition has been filed by the present appellant, who was respondent in the said appeal in Hon'ble Supreme Court. Therefore, the said judgment has become final and binding between the parties.

There is no ground to decrease the compensation; or otherwise interfere with the award.

Under the circumstances, finding no merit in the appeal, the same stands dismissed accordingly.

20.8.2019

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No