IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO-927-2006(O&M)

Pepsu Road Transport Corporation

...Appellant

Versus

Karamjit Kaur and others

...Respondents

(2) FAO-1524-2006(O&M)

Karamjit Kaur and another

...Appellants

Versus

S.Wakil Singh and another

...Respondents

Date of Decision:-22.5.2019

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

Present: Mr.S.P. Garg, Advocate
for the appellant in FAO-927-2006 and
for respondent No.2 in FAO-1524-2006.

Mr.Nakul Sharma, Advocate
for the appellants in FAO-1524-2006 and
for respondents No.1 and 2 in FAO-927-2006.

Mr.Mohd.Yousaf, Advocate
for respondent No.1 in FAO-1524-2006 and
for respondent No.3 in FAO-927-2006.

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H.S. MADAAN, J.

By this order, I shall dispose of two FAOs i.e. FAO-927-2006(O&M) filed on behalf of appellant Pepsu Road Transport

Corporation, Nabha Road Patiala and FAO-1524-2006(O&M) filed on behalf of appellants/claimants Karamjit Kaur and Daman Preet Kaur, which have arisen out of the same accident.

On account of death of Sh.Harpreet Singh in a motor vehicular accident on 13.2.2004 at about 7:15 p.m. in the area of gate of Sutluj Coach Private Product near village Mand on Kapurthala Road, Jalandhar statedly on account of rash and negligent driving of bus bearing registration No.PB-11-N-0871 (hereinafter referred to as the offending vehicle) by respondent No.1 – S.Wakil Singh, the legal representatives of deceased namely his father - Sh.Raghbir Singh, mother – Smt.Karamjit Kaur and sister – Ms.Daman Preet Kaur had brought a claim petition under Sections 166 of the Motor Vehicles Act against respondents i.e. S.Wakil Singh – driver and Pepsu Road Transport Corporation, Barnala Depot, Barnala – owner of the offending vehicle, claiming compensation to the tune of Rs.10 lacs.

Notice of the claim petition was given to the respondents, who put in appearance through counsel and contested the petition. The claim petition was allowed by Motor Accidents Claims Tribunal, Jalandhar and compensation of Rs.1,95,000/- was awarded to the claimants on account of death of Harpreet Singh to be paid by respondents jointly and severally along with interest @ 6% per annum from the date of filing of the claim petition till the date of payment, which would be payable within three months from the date of the said award, failing which interest would be payable at the rate of 9% per annum from the date of award till the date of payment. The apportionment of the compensation was as under:

1. Karamjit Kaur - 70%
2. Daman Preet Kaur - 30%

In addition to 70% of the total compensation of Rs.1,95,000/-, the claimant No.1 – Karamjit Kaur was also awarded Rs.5,000/- as funeral expenses.

The claimant No.1 Raghbir Singh had expired during the pendency of the claim petition and his name was deleted as a claimant.

The claimants and respondent No.2 - owner were dissatisfied with the said award dated 28.11.2005 and they have filed separate appeals before this Court.

Notice of the appeals was issued to the respondents, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

As far as **FAO-1524-2006** filed on behalf of the claimants is concerned, the Tribunal in light of the evidence adduced by the parties had come to the conclusion that respondent No.1 S.Wakil Singh was author of the accident by rash and negligent driving of the offending vehicle in which deceased Harpreet Singh has lost his life. The finding recorded by the Tribunal on issue No.1 is correct and is hereby affirmed.

Regarding issue No.2, as per the version of the claimants, the deceased was running business of manufacture of wooden furniture at Adda Mand under the name and style of M/s National Plywood and Hardware Store earning Rs.8,000/- per month and after spending

Rs.1,000/- on his personal expenses, he was contributing Rs.7,000/- per month to the claimants; that he was aged about 19 years and two months at the time of accident. The Tribunal in the light of the evidence adduced by the parties has observed that there was not enough cogent and convincing evidence on the file to show that the deceased was actually doing the business and earning Rs.8,000/- per month, as such took his income at par with income of a skilled labourer @ Rs.2,500/- per month i.e. Rs.30,000/- per annum.

The Tribunal has not made any addition towards future prospects. However, in view of the ratio of authority ***National Insurance Company Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009,*** in such an eventuality 40% of the amount is to be added towards future prospects. Doing that the monthly income of the deceased is taken as Rs.2,500 + 1,000 = Rs.3,500/-.

The age of deceased was taken to be 19 years considering his birth certificate. Since the deceased was a bachelor, in terms of ratio of authority ***Smt.Sarla Verma and others Versus Delhi Transport Corporation and Anr., 2009(3) RCR(Civil)77*** 50% of the amount is to deducted towards his personal expenses. The Tribunal has rightly deducted 50% of the amount towards self expenses. Doing that the dependency of claimants comes out to Rs.1,750/- per month, annual dependency comes out to Rs.1,750 x 12 = Rs.21,000/-.

However, the Tribunal had used multiplier of 13, which was on lower side. In view of judgment ***Smt.Sarla Verma and others Versus Delhi Transport Corporation and Anr.***(supra) a multiplier of 18 should have been applied. Doing that the compensation payable comes out to Rs. 21,000 x 18 = 3,78,000/-.

The Tribunal has awarded a sum of Rs.5,000/- as funeral expenses. However, in view of the ratio of authority ***National Insurance Company Limited Versus Pranay Sethi and Ors.***(supra), the claimants are entitled to get compensation under conventional heads i.e. Rs.15,000/- on account of loss of estate and Rs.15,000/- as funeral expenses. The total compensation comes out to Rs.3,78,000 + 30,000 = 4,08,000/-.

The Tribunal has awarded total compensation of Rs.1,95,000 + 5,000/- = 2,00,000/-.

In this way, the enhanced amount comes out to Rs.2,08,000/- (4,08,000 - 2,00,000). The claimants would be entitled to get interest @ 7.5% per annum from the date of filing of the appeal till actual realization on the enhanced amount of Rs.2,08,000/-. The other terms and conditions given in the relief clause shall apply to the enhanced amount as well.

With such modification, the ***FAO-1524-2006*** is allowed partly with costs.

Consequently, ***FAO-927-2006*** filed on behalf of owner is found to be without any merit and is dismissed accordingly.

22.5.2019 **(H.S.MADAAN)**
Brij **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No