

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. FAO-2639-2009 (O&M) in
MACT Case No. 102 of 2007

Balihar Singh and another

..... Appellants

Versus

Karambir Singh and others

..... Respondents

2. FAO-2640-2009 (O&M) in
MACT Case No. 100 of 2007

Bhag Singh and others

..... Appellants

Versus

Karambir Singh and others

..... Respondents

3. FAO-2674-2009 (O&M) in
MACT Case No. 100 of 2007

M/s GEE GEE Roller Flour Mills Pvt. Ltd.

..... Appellant

Versus

Bhag Singh and others

..... Respondents

4. FAO-2675-2009 (O&M) in
MACT Case No. 102 of 2007

M/s GEE GEE Roller Flour Mills Pvt. Ltd.

..... Appellant

Versus

Bhag Singh and others

..... Respondents

Date of decision: 15.07.2019

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Deepak Sharma, Advocate
for the appellants (in FAO Nos. 2639 and 2640-2009).

Mr. Sanjay Jain, Advocate
for the appellant (in FAO Nos. 2674 and 2675-2009).

Mr. Ravinder Arora, Advocate for Insurance Co. (in all cases).

FAO Nos. 2674 and 2675-2009, qua respondents No. 1 to 3
and respondent No. 1 and 2, respectively, already dismissed
vide order dated 27.05.2009 (in both cases).

RAMENDRA JAIN, J. (ORAL)

Above titled four appeals are being disposed of by this common judgment, i.e. two filed by the claimants (FAO Nos. 2639 and 2640-2009) and remaining two (FAO Nos. 2674 and 2675-2009) by registered owner of the offending truck bearing registration No. HR-37-5503), being arisen out of a consolidated impugned Award dated 09.01.2009, passed by the learned Motor Accident Claims Tribunal, Faridabad (for short 'the Tribunal'). For brevity, the facts are being extracted from FAO No. 2639-2009.

Briefly, on 09.08.2007, Kant Singh S/o Prem Singh, deceased brother of appellants (in FAO-2640-2009) along with Norang Singh @ Rang Singh @ Ranga S/o Balhiar Singh, son of appellants (in FAO-2639-2009), while travelling in Bolero Jeep bearing registration No. PB-07-R-3885, met with an accident with the offending truck bearing registration No. HR-37-5503, being driven in a rash and negligent manner by its driver-Karambir Singh and succumbed to their multiple grievous injuries received in the accident. Therefore, the brothers of Kant Singh and parents of Norang Singh @ Rang Singh @ Ranga,

aforesaid filed their respective claim petitions under Sections 163-A and 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), claiming compensation as per Schedule-II of the Act.

After holding trial, the learned Tribunal, vide consolidated impugned Award dated 09.01.2009, awarded compensation to the tune of ₹50,000/- to the brothers of deceased-Kant Singh i.e. appellants (in FAO-2640-2009) under 'No Fault Liability' and ₹2,02,250/- as compensation to the parents-appellants (in FAO-2639-2009) of deceased-Norang Singh @ Rang Singh @ Ranga.

Heard.

Admittedly, both the deceased were unmarried. In FAO-2639-2009, the learned Tribunal assessed the income of deceased-Norang Singh @ Rang Singh @ Ranga, at ₹3000/- per month and 50% was deducted towards his personal expenses, he being an un-married. Age of the deceased at the time of his death was 24 years. Therefore, , as per Schedule-II of the Act, the learned Tribunal ought to have applied multiplier of 17, instead of 11. Hence, after applying multiplier of 17, the dependency of the appellants upon deceased comes to $1500 \times 12 \times 17 = ₹3,06,000/-$. That apart, amount of ₹9500/- has granted to the appellants-parents towards loss of estate, love and affection. Therefore, the total compensation so to be awarded to the appellant (in FAO-2639-2009) comes to $₹3,06,000 + ₹9500 = ₹3,15,500/-$. The learned Tribunal has already awarded compensation of ₹2,02,250/-. Therefore, it is apparent that the appellants are entitled to enhancement of compensation of ₹1,13,250/- (315500-202250), over and above the awarded amount of

₹2,02,250/- by the Tribunal, along with interest @ 7.5% per annum from the date of filing of claim petition till realization.

As far as appeal bearing FAO-2640-2009, filed by the brothers, namely; Bhag Singh, Gurmel Singh and Bahadur Singh of deceased-Kant Singh is concerned, all of them were majors having the age of 55 years, 46 years and 42 years, on the date of filing of claim petition. Therefore, the learned Tribunal, has rightly declared them not dependent upon deceased, inasmuch as, elder brothers cannot be treated as dependents upon a un-married brother having the age of 28 years. Rather it was bounden and pious duty of the appellants to up-keep and maintain deceased-Kant Singh. Hence, considering this aspect of the matter, this Court is not inclined to increase the compensation of ₹50,000/- already granted by the Tribunal, under the head 'no fault liability', under Section 140 of the Act.

As far as appeals bearing FAO Nos. 2674 and 2675-2009, filed by the registered owner of offending truck bearing registration No. HR-37-5503, is concerned, this Court is not inclined to differ with the findings of the learned Tribunal, in view of statement of RW-3 Bijender Singh, Clerk, Licencing Authority, Rohtak, to the effect that driving licence No. 5405/RSD, relied upon by the owner in the name of his employee driver, namely; Karambir Singh was a fake licence as it was issued in favour of one Kuljeet Singh on 18.09.1993, authorizing him to drive scooter and motor car. That apart, even if, we presume for the same of arguments that Karambir Singh, employed driver of the owner was holding aforesaid driving licence, in that eventuality also, he was not

authorized to drive “heavy transport vehicle”.

As a sequel to the discussion made above, FAO-2639-2009, filed by the parents of deceased-Norang Singh @ Rang Singh @ Ranga, is partly accepted. The appellants are awarded a sum of ₹1,13,250/- over and above the awarded amount of ₹2,02,250/- by the Tribunal, along with interest @ 7.5% per annum, from the date of filing of claim petition till realization, for onward disbursement to the claimant-appellants, in accordance with law, against proper receipt and identification.

FAO Nos. 2640, 2674 and 2675-2009, being meritless, are dismissed.

The statutory amount of ₹ 25,000/- in FAO Nos. 2674 and 2675-2009, by the appellant-owner of the offending truck, shall be adjusted towards the amount of compensation payable to the claimants.

July 15, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No