IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 6042 of 2011 (O&M)
Date of decision : 7.8.2019
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Munni Devi and others
................Appellants

vs.

Partap Singh and others
................Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Argued by : Mr. Navdeep Monga, Advocate for
Mr. N.K. Malhotra, Advocate for the appellants.

Mr. Ashwani Talwar, Advocate and
Mr. Akash Sridhar, Advocate for
respondent No.3.
...

H. S. Madaan, J.

Briefly stated, facts of the case are that on 29.5.2010, Dharampal deceased was proceeding towards village Kharenti on his motorcycle bearing registration No. HR-12-M-1484, to join his duty at PNB Kharenti. One Harikishan was pillion riding the said motorcycle. Raj a brother of deceased was going to Lakhanmajra on a separate vehicle and Gulshan Kumar was pillion riding the said vehicle. When the motorcycle driven by Dharampal had reached near DPS School, ahead of village Singhpura, in the meanwhile a truck bearing registration No. RJ-05-GA-0171 being driven by respondent

No.1 Partap Singh, in a rash and negligent manner and at a very high speed in violation of traffic rules, came from Jind side and struck the motorcycle driven by Dharampal, having Harikishan as a pillion rider. Resultantly, Dharampal and Harikishan suffered multiple, grievous injuries, which proved fatal. FIR No. 403 dated 29.5.2010, for offences under Sections 279/304-A IPC was registered with Police Station City Rohtak. Legal heirs of deceased Dharampal namely, his widow Munni Devi, minor daughter Munakshi, Deepak and Sandeep minor sons, had brought a claim petition under Section 166 of the Motor Vehicle Act, against respondents i.e. Partap Singh – driver, Razi Mohammad – owner and Shri Ram General Insurance company Ltd., District Jaipur – insurer of truck No. RJ-05-GA-0171 (hereinafter to be referred as 'the offending truck'), claiming compensation to the tune of Rs.20 lacs.

Legal heirs of other deceased Hari Kishan, namely, Smt. Ranjana and others had also brought a separate claim petition, since two petitions arose out of the same accident, they were tried together and disposed of vide single award by Motor Accidents Claims Tribunal, Rohtak on 30.7.2011.

On being put to notice, all the three respondents appeared. Respondent Nos. 1 and 2 submitted a joint written statement whereas respondent No.3 – Insurance company came up with a separate written statement, opposing the claim petition. Issues on merits were framed. Parties were afforded adequate opportunities to lead evidence.

After hearing the arguments, both the claim petitions were accepted. The claim petition filed by Smt. Munni Devi and others with regard to death of Dharampal was allowed and a compensation of Rs.13,02,917/- was awarded to the claimants payable by all the respondents jointly and severally. Claimants were dissatisfied with the compensation awarded to them by the Tribunal and have filed an appeal before this Court.

Notice of the appeal was given to the respondents, who have put in appearance.

It needs to be mentioned here that the Tribunal on the basis of oral as well as documentary evidence, brought by the parties have returned a finding that respondent No.1 Partap Singh was author of the accident by his rash and negligent driving of the offending truck, resulting in causing grievous injuries to Dharampal, who had succumbed to those injuries. The Tribunal was justified in giving such finding and no fault can be found with the same.

With regard to the quantum of compensation awarded, Dharampal deceased was a bank employee and as per his salary certificate, proved in evidence, he was drawing total salary of Rs.31,621.88 P. Accordingly, by rounding of, salary of the deceased is taken to be Rs.31,622/- .

The Tribunal has taken age of the deceased to be 55 years. However, the Tribunal has not granted any addition towards the future prospects. In terms of authority ***National Insurance Company Limited vs. Pranay Sethi and others. 2017 (4) RCR (Civil) 1009,*** when the deceased is between the age of 50 to 60 years, addition of 15% is required to be made. By making the addition of 15%, the monthly income of the deceased comes out to Rs.31,622 + 4743 = Rs. 36,365/-.

Accordingly, the annual salary is calculated as Rs.36,365 x 12 = Rs. 4,36,380/-. 20% of the salary is to be deducted towards income tax. By doing that, the income of the deceased comes out to Rs. 4,36,380 – 87,276 = Rs.3,49,104/-

Keeping in view number of dependents, 1/4th of the total income is to be deducted towards personal and living expenses of the deceased. By deducting that amount, the dependency of the claimants comes out to Rs. 3,49,104 – 87,276 = 2,61,828/-.

The Tribunal has taken age of the deceased to be 55 years. In terms of authority ***Smt. Sarla Verma vs. Delhi Transport Corporation 2009 (3) RCR (Civil) 77,*** multiplier of 11 is required to be applied. By applying that multiplier, the payable compensation comes out to Rs.2,61,828 x 11 = Rs. 28,80,108/-

On this amount, in terms of ratio of authority ***Pranay Sethi's case (Supra),*** the appellants – claimants are entitled to get Rs.15,000/- towards loss of estate, Rs.40,000/- towards loss of consortium and Rs.15,000/- on funeral expenses, totalling Rs.70,000/-. Thus the total compensation payable to the claimants comes to Rs.28,80,108 + 70,000 = Rs.29,50,108/-

The Tribunal has awarded a sum of Rs.13,02,917/- to the claimants as compensation.

In that way, the claimants are entitled to get additional compensation of (Rs.29,50,108 – 13,02,917) Rs.16,47,191/-, payable by all the three respondents jointly and severally. The claimants-appellants shall be entitled to get interest @ 7.5% per annum on the additional compensation from the date of filing of appeal till actual realization. The apportionment and other terms and conditions shall remain the same as in the original award.

In that way this appeal is allowed partly.

(H.S. Madaan)
Judge

7.8.2019
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Whether speaking / reasoned Yes / No

Whether reportable Yes / Nos