

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-10764-CII of 2019 in/and
F.A.O. No.10412 of 2014 (O&M)
Date of Decision: 13.05.2019

Mahesha Devi

.....Appellant.

Versus

Gurmit Singh and others

..... Respondents.

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.S.K.Bawa, Advocate
for the appellant.

Mr. Harsh Chopra, Advocate
for applicants-respondents no.1 and 2.

Mr.Sanjeev Kumar Arora, Advocate
for respondent no.4.

Mr. Arun Kaundal, DAG., Punjab.
For respondents no.5 and 6.

Mr. Zoheb Sidhu, Advocate
for Mr. Nakul Sharma, Advocate
for respondent no.7.

LISA GILL, J.

CM-10764-C of 2019.

Prayer in this application is for deletion/striking out the name of respondents no.2 and 3 from the array of parties.

Learned counsel for the applicants-respondents no.2 and 3 submits that the offending bus in question did not belong to them and they have wrongly been impleaded.

Learned counsel for respondents no.5 and 6, fairly states that

the offending bus was owned by PUNBUS and not PRTC. The amount of compensation has since been deposited before the learned executing Court on behalf of PUNBUS.

Keeping in view the specific stand of the parties, respondents no.2 and 3 are ordered to be deleted from the array of parties.

Application is accordingly disposed of.

FAO No. 10412 of 2014.

Appellant-claimant, seeks enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Jalandhar (for short 'tribunal'), vide impugned award dated 27.08.2013, on account of death of Baij Nath son of Ram Dev @ Ram Bodh Yadav.

Appellant-claimant is the mother of the deceased.

As per averments in the claim petition filed under Section 166 of the Motor Vehicles Act (for short 'M.V.Act'), Baij Nath, son of the appellant was going to Mukatsar on 24.01.2010 on Canter bearing registration no. PB-29-9943. At about 6.00.a.m., when he reached at Sutlej river bridge near Shahkot, a bus bearing registration no. PB-30-D-2273, driven by respondent no.1-Gurmit Singh in a rash and negligent manner struck against the vehicle of the deceased. As a result thereof, Baij Nath received multiple injuries and died at the spot. FIR was registered against respondent no.1, in this respect.

Learned Tribunal concluded that the accident in question was caused solely due to rash and negligent driving of the offending bus by respondent no.1-Gurmit Singh. Said finding of the learned tribunal has attained finality. National Insurance Company i.e., respondent no.4 in this

appeal and respondent no.5 before the learned tribunal and insurer of the Canter bearing registration no. PB-29-9943 was absolved of its liability. Respondents no.1 to 3 and 6 were held liable to pay the compensation.

Learned tribunal awarded a sum of ₹6,48,000/- while assessing income of the deceased as ₹6000/-per month, which is detailed as under:-

Sr. No.	Heads of Claim	Amount
1.	Income	₹6000/- p.m.
2.	Deduction	50%
3.	Multiplier	18
	Total	₹6,48,000/-

Aggrieved therefrom, the present appeal has been filed by the appellant-claimant.

Learned counsel for the appellant submits that income of the deceased has been wrongly assessed as ₹6000/- per month, whereas the appellant categorically stated that her son was earning a sum of ₹8000/- per month. Increment on account of future prospects has not been afforded. Moreover, compensation under the conventional heads is meagre. It is thus prayed that the amount of compensation awarded to the appellant be enhanced accordingly.

Learned counsel for the respondents refutes the abovesaid averments and submits that just and reasonable compensation has been awarded by the learned Tribunal which does not call for any enhancement. Dismissal of the appeal is prayed for.

I have perused the file and heard learned counsel for the parties.

There is no dispute regarding death of Baij Nath in a motor vehicle accident which took place on 24.01.2010 due to the rash and

negligent driving of the offending bus bearing registration No.PB-30-D-2273 by respondent No.1-Gurmit Singh.

Though, the claimant has stated that the deceased was earning a sum of ₹8000/- per month while working as a driver under RW-2-Makhan Singh. However, Makhan Singh while deposing as RW-2, before the learned tribunal specifically stated that he was paying a sum of ₹4000/- per month to the deceased as salary. Minimum wage of a driver in the State of Punjab is much less than ₹6000/- as assessed by the learned tribunal. In the facts and circumstances of the case, I do not find any ground whatsoever for any interference in this respect. Thus, income of the deceased as assessed by the learned tribunal i.e. ₹6000/- is upheld.

As the deceased was admittedly about 24 years old at the time of accident, increase in income at the rate of 40% on account of future prospects has to be afforded keeping in view the observations of the Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(16) SCC 680**. Deduction of 1 /2 and multiplier of 18, have been correctly applied.

Appellant is entitled to ₹15,000/- each towards funeral expenses and loss of estate. Appellant is also entitled to a sum of ₹40,000/- on account of loss of filial consortium. Reference in this regard can gainfully be made to the judgement of the Hon'ble Supreme Court in **Magma General Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors., 2018(4) RCR(Civil) 333**, as well as decision dated 14.03.2019 of this Court in **FAO No.2110 of 2016 (Shri Ram General Insurance Company Ltd. v. Beant Kaur and others)**.

Appellant-claimant is, thus, entitled to compensation which is reworked as under:-

Sr. No.	Heads of Claim	Amount
1.	Income	₹6000/- p.m.
2.	Total income after addition at the rate of 40% on account of future prospects	₹6000 + (6000 x 40%) = ₹8400/-
3.	Deduction of 1/ 2 on account of personal expenses	₹8400 – (8400 x 1/2) = ₹4200/-
4.	Total dependency after applying a multiplier of 18	(4200 x12 x 18) = ₹ 9,07,200/-
5.	Loss of estate	₹15,000/-
6.	Funeral expenses	₹15,000/-
7.	Filial consortium	₹40,000/-
	Total	₹9,77,200/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimant shall be entitled to interest on the entire amount of compensation at the rate of 7.5% per annum from the date of filing of the petition till realization. Manner of disbursement as determined by the learned Tribunal shall remain the same. Needless to say, the compensation has to be paid by respondent no.6-PUNBUS.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

13.05.2019

s.khan

[LISA GILL]

Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.