IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5129-2014(O&M)
Date of decision:-19.9.2019

Satya Devi and others

...Appellants

Versus

Mohan Transport Company and others

...Respondents

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

Present: Mr.Naveen Sharma, Advocate for
Mr.Vijay Lath, Advocate
for the appellants.

Mr.Lovish Rattan, Advocate for
Mr.Surinder Sharma, Advocate
for respondents No.1 and 2.

Mr.Vinod Mahendru, Advocate
for respondents No.3 and 5.

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H.S. MADAAN, J.

On account of unfortunate death of Rameshwar Datt @ Ram Singh in a motor vehicular accident, which took place on 14.2.2013 at about 10:45 a.m. in the area near Kiratpur bus stand, Police Station Sadar Ropar, statedly on account of rash and negligent driving of truck bearing registration No.HP-69-1414 (hereinafter referred to as the offending vehicle) by respondent No.2 – Madan Lal, his legal heirs, namely, his wife - Smt.Satya Devi, minor son – Jaswinder Singh, minor daughters Dhan Kaur and Sarabjit Kaur, minor son – Manpreet Singh and mother - Smt.Premi had brought a claim petition under Section 166 of the Motor

Vehicles Act, 1988 against the respondents i.e. Mohan Transport Company – owner, Madan Lal – driver, New India Assurance Company Ltd. - insurer of the offending vehicle, before Motor Accidents Claims Tribunal, Rupnagar (hereinafter referred to as the Tribunal). Huzoora Singh – owner and New India Assurance Company Ltd. - insurer of truck No.HP-12-2904 were also impleaded as respondents No.4 and 6.

On getting notice, respondents No.1 to 4 and 6 had appeared and offered a contest. Issues on merits were framed. The parties were afforded adequate opportunities to lead evidence.

On conclusion of trial, the claim petition was partly allowed by the Tribunal vide award dated 19.12.2013 awarding compensation of Rs.4,98,000/- along with interest at the rate of 6% per annum from the date of filing of claim petition till realization of the amount of compensation to the claimants payable by respondents No.1 to 3 jointly and severally. The directions with regard to apportionment of the compensation were also given in the award.

Feeling that the compensation awarded was on lower side, the claimants have approached this Court by way of filing an appeal, notice of which was given to respondents and respondents No.1 to 3 and 5 have put in appearance through counsel.

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

It may be mentioned here that after coming to the conclusion that the accident, in which Rameshwar Datt @ Ram Singh had suffered injuries, to which he had succumbed, had taken place on account of rash and negligent driving of the offending vehicle by respondent No.2 – Madan Lal, the Tribunal proceeded to determine the amount of compensation payable and took the age of deceased as 42 years and avocation as a truck driver and his income was assessed to be Rs.4,000/- per month.

Learned counsel for the appellants has contended that since the deceased was a truck driver, at least he should have been taken as a skilled labourer and his income assessed as such. He has referred to minimum rates of wages fixed by the office of Labour Commissioner, Punjab and as per entry in table No.1 on 1.9.2013, such minimum wages for a skilled labourer were Rs.7,924.75, to make a round figure Rs.7,925/-.

Learned counsel for the insurance company could not refer to any other document where a lesser amount might have been mentioned. Therefore, I assess the monthly income of deceased to be Rs.7,925/-. The Tribunal has not made any addition towards future prospects. 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 25% of the amount is to be added towards future prospects. Doing that the monthly income of the deceased is taken as Rs.7,925 + 1981 = Rs.9,906/-.

In terms of the ratio of authority ***Smt.Sarla Verma and others Versus Delhi Transport Corporation and Anr., 2009(3) RCR(Civil)77*** where the number of dependent family members are 4 to 6, deduction towards self-expenses is to be taken as 1/4th. Doing that the dependency of claimants comes out to Rs.7,430/- per month, annual dependency comes out to Rs.7,430 x 12 = Rs.89,160/-.

The Tribunal has used multiplier of 13, whereas in terms of ratio of authority ***Smt.Sarla Verma and others(supra),*** multiplier of 14 should be used. Doing that the compensation payable comes out to Rs. 89,160 x 14 = 12,48,240/-.

The Tribunal has awarded a sum of Rs.30,000/- towards loss of consortium, love and affection and funeral expenses. Whereas 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, Rs.40,000/- towards loss of consortium and Rs.15,000/- as funeral expenses, total Rs.70,000/-. The total compensation comes out to Rs.12,48,240 + 70,000 = 13,18,240/-.

The Tribunal has awarded compensation of Rs.4,98,000/-.

In this way, the enhanced amount comes out to Rs.8,20,240/- (13,18,240 – 4,98,000) which is awarded to the claimants. 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.8,20,240/-. The other terms and conditions given in the relief clause shall apply to the enhanced amount as well.

With such modification, the appeal is allowed partly with costs.

19.9.2019 **(H.S.MADAAN)**
Brij **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No