IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 9534 of 2014 (O&M)
Date of decision : July 23, 2019

Satnam Singh alias Vicky .....Appellant

Versus

Krishan Kumar and another ....Respondents

FAO No. 104 of 2015 (O&M)

Satnam Singh alias Vicky and others .....Appellants

Versus

Krishan Kumar and another ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. A.S. Syan, Advocate
for the appellants.

None for the respondents.

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LISA GILL, J.

This judgment shall dispose of FAO No. 9534 of 2014 (Satnam Singh alias Vicky Versus Krishan Kumar and another) and FAO No. 104 of 2015 (Satnam Singh alias Vicky and others Versus Krishan Kumar and another) as both the appeals though decided by two separate awards of even date, emanate from the same motor vehicle accident.

FAO No. 9534 of 2014 has been filed by the claimant seeking enhancement of compensation awarded to him vide award dated 05.08.2014 passed by the learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'Tribunal') on account of injuries suffered by him in a motor vehicle accident, which took place on 24.08.2013.

FAO No. 104 of 2015 has been filed by the claimants seeking enhancement of compensation on account of death of Bant Singh in the above mentioned accident.

Brief facts necessary for adjudication of the case are that the appellant – Satnam Singh alongwith his grandfather Bant Singh was going from village Wazidpur towards village Moonak on a motorcycle bearing registration No. PB-11-AZ-1859. When they reached near Petrol pump of village Nial, offending motor cycle bearing registration No. PB-11-AK-7483 driven in a rash and negligent manner came from opposite side and struck against their motor cycle. As a result thereof, they fell down on the road. Appellant – Satnam Singh suffered injuries including fracture and Bant Singh succumbed to his injuries.

None has appeared on behalf of the respondents despite service which was complete as way back as in February, 2016. Respondent No. 2 was proceeded exparte on 22.07.2016. A perusal of the file reveals that notice was sent again pursuant to order dated 23.05.2018. Still none has appeared. No useful purpose shall be served by deferring the hearing of this appeal any further.

Learned Tribunal awarded compensation of ₹15,000/- to appellant – Satnam Singh (in MACT No. 823/13) in respect to injuries suffered by him.

Learned Tribunal while assessing the income of the deceased Bant Singh (in MACT No. 824/13) to be ₹6800/- per month awarded a sum of ₹2,39,000/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual realisation of the award. 50% deduction was effected. Multiplier of 5 was applied as the deceased was 68 years old at that time. Additionally, a sum of ₹25,000/- on account of funeral expenses and last rites was awarded and a sum of ₹10,000/- on account of loss of love and affection. Learned Tribunal exonerated the registered owner of his liability on the ground that respondent No. 1 admitted that he had purchased the offending vehicle from the registered owner prior to the accident.

Learned counsel for the appellants submits that the registered owner of the vehicle has been wrongly exonerated of his liability in this case, as respondent No. 1, it is submitted, was wrongly projected to be the owner of the vehicle.

It is relevant to note at this stage that the Hon'ble Supreme Court in **Naveen Kumar Vs. Vijay Kumar and others *2018 (2) RCR (Civil) 74,*** has held that the registered owner of the offending vehicle is liable to pay compensation even though the vehicle in question has been further sold or transferred to any person. The motorcycle was released on superdari to respondent No. 2, the registered owner. Therefore, the said finding of the learned Tribunal exonerating respondent No. 2 of his liability to pay the compensation is set aside. Respondent No. 1 has taken a specific stand of having purchased the motorcycle from its registered owner prior to the accident. In this situation, both the respondents are held jointly and severally responsible to pay the compensation.

FAO No. 9534 of 2014

Learned counsel for the appellants submits that only a lumpsum compensation of ₹15,000/- was awarded by the learned Tribunal. The same be enhanced as it is extremely meagre in the given circumstances.

I have heard learned counsel for the appellant and have gone through the available file.

It is a matter of record that the appellant on sustaining injuries in a motor vehicle accident which took place due to rash and negligent driving of motor cycle bearing registration No. PB-11-AK-7483 by respondent No. 1, was taken to the Government Hospital, Patiala. From there, he was referred to Rajendra Hospital, Patiala. The appellant remained admitted in Rajendra Hospital from 24.08.2013 to 27.08.2013. PW2 Dr. Munish Garg, Medical Officer has testified that the appellant was examined by him on 24.08.2013 and thereafter referred to Rajindra Hospital, Patiala after giving first aid. There was a fracture on the right hand of the claimant, who had received injuries in a road side accident. PW3 Dr. Munish Yadav, Rajindra Hospital, Patiala has testified that the claimant suffered injuries on the right hand and nose. Admission record of the hospital was proved by PW3. It is a matter of record that the claimant – appellant did not suffer any permanent disability in this accident. In the facts and circumstances of the case, the appellant is entitled to compensation to be calculated under various heads instead of a lump sum amount of ₹15,000/-. Though no specific bills in respect to the medical treatment have been proved on record, there is ample evidence on record to prove that the appellant remained admitted in the hospital from 24.08.2013 to 27.08.2013. The injuries received by him are proved on record. Keeping in view the facts and circumstances of the case, expenses on medical treatment, which would necessarily have been incurred, are assessed as ₹7,000/-.

The appellant – Satnam Singh is, thus, entitled to the compensation which is detailed as hereunder:-

Pain and suffering	: ₹10,000/-
Special diet	: ₹1,500/-
Attendant charges	: ₹1,500/-
Transportation charges	: ₹1,500/-
Medical expenses	: ₹7,000/-
Total	: ₹21,500/-

FAO No. 104 of 2015

Learned counsel for the appellants submits that income of the deceased Bant Singh has been wrongly assessed as ₹6,800/- per month as apart from the pension of ₹6,821/-, the deceased was running a canteen at the Government Senior Secondary School, Wazidpur and was earning a sum of ₹10,000/- per month from there. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

The deceased Bant Singh, in this case, admittedly retired from the office of Executive Engineer, Water Supply and Sanitation Division, Sangrur. He was in receipt of pension of ₹6,821/- per month at the time of his death as is duly proved from the pension certificate Ex. PW1/D and account statement Ex.PW1/E. However, learned counsel for the appellants is unable to point out any evidence, which would prove that the deceased was earning a sum of ₹10,000/- by running a canteen as pleaded. PW2 Ranjit Singh has been examined by the claimants to prove the same. However, it is pertinent to note that PW2 Ranjit Singh claimed himself to be the Chairman of the School Management Committee, Wazidpur. He stated that he was known to the deceased and had come to depose being a close friend of the family of the deceased. Admittedly, he did not produce any document to show that he was the Chairman of the School in question neither was any document produced on record to show that the deceased Bant Singh was running a canteen on the school premises. The certificate Ex. PW2/C was prepared on a plain paper. The school in question is admittedly a Government school i.e. Government Senior Secondary School, Wazidpur. No official from the school has been examined, neither have any documents been placed on record in this respect. Therefore, income of the deceased necessarily has to be assessed as ₹6821/- per month. 50% deduction has been applied while noting that the claimants are the sons and grand son of the deceased. As per the evidence on record, all of them were living together and it is not possible that the deceased would have been contributing in the household only to the extent of 50% of his income. Instead of 50%, deduction of 1/3rd should be effected, which renders income of the deceased to be ₹4547/-(6821-2274). Applying a multiplier of 5, dependancy of the claimants is assessed as ₹2,72,820/- (₹4547x12x5). The claimants are also entitled to ₹15,000/- each for funeral expenses and loss of estate. Claimants are, thus, entitled to total compensation of ₹3,02,820/- detailed as under:-

Loss of dependency (₹4547x12x5).	₹2,72,820/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹3,02,820/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above. Appellants are entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeals are disposed of.

(Lisa Gill)
Judge

July 23, 2019
rts

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No