IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4627-2018 (O&M)
Decided on : 10.12.2019

Pepsu Road Transport Corporation (PRTC)

. . . Appellant(s)

Versus

Gurbachan Singh and others

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Anupam Singla, Advocate
for the appellant(s).

Mr. Randeep Singh Virk, Advocate
for respondents No.1 to 4.

None for respondent No.5.

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MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the Pepsu Road Transport Corporation (for brevity 'the Corporation') against the impugned award dated 07.02.2018, passed by the Ld. Motor Accidents claims Tribunal, Sangrur (hereinafter referred to as 'the Ld. Tribunal'), whereby, the Ld. Tribunal returned a finding that the deceased Sukhwinder Kaur, had died in the accident in question due to the rash and negligent driving of the offending vehicle bearing registration No. PB-11AB-9161, being driven by Gurwinder Singh. and thus both the driver and the owner of the offending vehicle were held jointly and severely liable to pay compensation in the sum of Rs.12,30,000/- to the claimants i.e. widower and three children of the deceased – Sukhwinder Kaur.

Brief facts of the case are that claimants who are respondents

No.1 to 4, respectively in the instant appeal, preferred a petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation on account of death of Sukhwinder Kaur. Claim petition was filed by the husband and three children of the deceased. It was pleaded in the claim petition that on 09.03.2009, deceased Sukhwinder Kaur along with her son Hardeep Singh were going to their village Nakte from Bhawanigarh on a motor cycle at a normal speed on the correct side of the road. At about 1:30 P.M., when they reached near Balad Kanchian, the offending bus i.e. PB-11AB-9161 driven by respondent No.1 (herein proforma respondent No.5), driven in a rash and negligent manner hit against the motorcycle from the rear side. Due to the impact both Hardeep Singh and the deceased Sukhwinder Kaur fell down on the road. The offending bus crushed the head of Sukhwinder Kaur under its wheels, as a result of which, she died on the spot. The motorcycle was badly damaged and son of the deceased Hardeep Singh too suffered multiple injuries on his person. FIR No. 25, dated 09.03.2009, under Sections 279, 337, 427, 304-A of IPC was registered at P.S. Bhawanigarh. It was claimed that the deceased was a house wife aged 50 years and earning Rs. 7000/- per month from dairy farming.

Ld. Tribunal on consideration of the evidence on record concluded that it stood proved that Sukhwinder Kaur died as a result of the injuries received by her in the motor vehicle accident in question. While assessing income of the deceased as Rs. 5,000/- per month, Ld. Tribunal awarded a sum of Rs. 12,30,000/- as compensation to the claimants, which is detailed herein as under:-

Sr. No.	***Heads***	***Calculations (Rs.)***
1.	Income	5,000/- per month
2.	Loss of dependency after applying multiplier of 13	5,000 x 12 x 13 = 7,80,000/-
3.	Loss of consortium	1,00,000/-
4.	Loss of love and affection	3,00,000/-
5.	Funeral expenses	25,000/-
6.	Loss of estate	25,000/-
	Total	**12,30,000/-**

I have heard learned counsel for the parties and have gone through the case file.

Counsel for the appellant-Corporation contends that a huge amount of compensation under the conventional heads has been assessed by the Ld. Tribunal, which is not in consonance with the settled law as laid down by the Apex Court. It has been further contended that the monthly income of the deceased has also been wrongly assessed by the Ld. Tribunal as Rs. 5000/- per month, in the absence of any evidence in support thereof.

It is pertinent to mention here that on 01.08.2018, when the instant appeal came up for hearing, while issuing notice of motion, this Court observed as under:-

> *"Appellant, Pepsu Road Transport Corporation has filed the instant appeal assailing the award dated 07.02.2018 passed by the Motor Accident Claims Tribunal, Sangrur and in terms of which a compensation amount of Rs.12,30,000/- has been awarded in favour of the claimants on account of death of Sukhwinder Kaur in an accident that took place on 09.03.2009 involving a bus owned by the Corporation.*

> *Having argued the matter at great length with regard to the findings recorded by the Tribunal as regards rash and negligent driving of the driver of the offending vehicle and having failed to convince this Court on such aspect, counsel makes a statement that he would confine the scope of the instant appeal only with regard to quantum of compensation.*
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> *As regard quantum, it is inter alia contended that an amount of Rs.4,50,000/- has been awarded under the conventional heads i.e. loss of consortium, funeral expenses and loss of estate and which is against the dictum laid down by the Apex Court in **National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**.*
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> *Notice of motion, returnable for 28.01.2019.*
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> *In the meanwhile, operation of the impugned award in excess of Rs.9 lakhs shall remain stayed."*

A perusal of the aforesaid order reveals that the appellant-Corporation had thus confined the scope of the instant appeal only with regard to the quantum of compensation.

In my considered opinion, loss of dependency which has been assessed at Rs.7,80,000/- and loss of consortium to the husband assessed at Rs.1,00,000/- does not warrant any interference. However, as per the law laid down by the Apex Court in ***National Insurance Company Limited v. Pranay Sethi and others*, *2017(16) SCC 680*** and ***Magma General***

***Insurance Company Ltd. v. Nanu Ram Alias Chuhru Ram & Ors.* 2018(4) RCR Civil 333**, the following heads deserve to be reassessed as under :-

Sr. No.	***Heads***	***Calculations (Rs.)***
1.	Loss of Parental consortium	(40,000 x 3) = 1,20,000/-
2.	Funeral expenses	15,000/-
3.	Loss of estate	15,000/-
	Total	**1,50,000/-**

In view of above, the total compensation on reassessment is scaled down from Rs. 12,30,000/- to Rs. 10,30,000/-. The rate of interest as awarded by the Ld. Tribunal i.e. 9% per annum and ratio of apportionment as well as manner of disbursement of compensation amongst the claimants as determined by the Ld. Tribunal shall remain the same with modification that respondents No.2 to 4 would be entitled to equal shares of amount of Rs.1,20,000/- for loss of parental consortium. The appellant-Corporation shall be entitled to recover the excess amount, if paid, by filing an appropriate application before the Ld. Tribunal.

The instant appeal stands disposed off accordingly.

(MANJARI NEHRU KAUL)
JUDGE

December 10, 2019

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No