IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-1067 of 2004
DATE OF DECISION : 30.06.2020

Nachhattar Singh and other …Appellants

Versus

Charanjit Singh and others …Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present : Mr. R.K.Shukla, Advocate,
for the appellants.

Mr. R.C.Gupta, Advocate,
for respondent No.3-Insurance Company.

Mr. G.P.Vashisht, Advocate,
for respondent Nos.4 to 10.

KARAMJIT SINGH, J.

The claimants/appellants have filed this appeal against the award dated 11.11.2003 passed by the Motor Accident Claims Tribunal, Patiala, (hereinafter referred to as 'the Tribunal'), whereby, compensation worth Rs.1,68,000/- in equal shares was granted to claimant/appellant No.1, Nachhattar Singh, and respondent Nos.4 to 10, they being siblings of the deceased-Bhajan Singh.

The claimant/appellant No.1-Nachhattar Singh and his sons, Baljinder Singh and Chamkaur Singh, filed claim petition under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') for grant of compensation on account of death of Bhajan Singh in a motor vehicle accident. Proforma respondent Nos.4 to 10 were also siblings of deceased-Bhajan Singh.

In the claim petition, it was pleaded that on 04.01.2003 at about

7:45 P.M, Bhajan Singh was going towards his truck on foot, outside Gate No.2 of gas plant in the area of Village Boran Kalan, Police Station Sadar, Nabha. In the meantime, Truck No.PB-13-0595, which was driven by respondent No.1-Charanjit Singh in rash and negligent manner, came out of Gate No.2 of gas plant. The said truck ran over Bhajan Singh. As a result of which, he sustained multiple injuries and died at the spot. The deceased was working as a driver and his monthly income was Rs.3,000/-. Claimant/appellant No.1-Nachhattar Singh and respondent Nos.4 to 10 were siblings of the deceased while claimants/appellants No.2 and 3, namely, Baljinder Singh and Chamkaur Singh, were nephews of the deceased. All of them were dependent on the income of the deceased. The offending vehicle was owned by respondent No.2-Sandeep Singh and insured with respondent No.3. Compensation worth Rs.8 lacs was sought along with interest.

The claim petition was contested by respondent No.1 to 3. In their joint written statement, respondent Nos.1 and 2 denied the accident and the other averments contained in the claim petition. Additional objections regarding maintainability of the claim petition were also taken by respondent No.1 and 2 and they prayed for dismissal of the claim petition.

Respondent No.3-Insurance Company in its written statement took preliminary objections regarding maintainability of the claim petition and validity of the driving licence of the driver of the alleged offending vehicle. On merits, it was denied that Truck bearing registration No.PB-13-0595 was involved in any accident, on 04.01.2003, as alleged by the claimants/appellants. However, it was admitted that the said truck was insured with the answering respondent in the name of respondent No.2-Sandeep Singh. The other averments of the claim petition were denied and it was pleaded that the claim petition be dismissed.

The claimants/appellants filed replications controverting the averments made by the contesting respondents in their written statements.

On the pleadings of the the parties, following issues were framed by the Tribunal:-

1. Whether deceased Bhajan Singh son of Gurbilas Singh died in road accident on 04.01.2003 in the area of village Boran? OPP.
2. If issue no.1 is proved, to what amount of compensation the claimants are entitled to and from which of the respondents? OPP.
3. Whether respondent no.1 was not holding a valid and effective driving licence at the time of accident? OPR-3
4. Whether the claim petition is not maintainable? OPR.
5. Relief.

Learned counsel for the claimants/appellants examined Nachhattar Singh, claimant/appellant No.1 as PW1, Ranjit Singh Lamberdar as PW2, Dr. A.K.Chopra as PW3, Balwinder Singh, eye-witness, as PW4 and Taranjit Singh as PW5.

Respondent Nos.1 and 2 had not led any evidence. While, insurance policy (Exhibit R1), verification report (Exhibit R2), registration certificate (Exhibit R3) and copy of driving licence of respondent No.1 (Exhibit R4) were placed on record by learned counsel for respondent No.3-Insurance Company.

The Tribunal after hearing learned counsel for the parties, decided all the issues in favour of claimant/appellant No.1 and respondent Nos.4 to 10 and granted compensation worth Rs.1,68,000/- in their favour in equal shares which was to be paid within a period of three months from the date of award, failing which, it was to be paid along with interest at the rate of 9% per annum from the date of award till its realization. The claim petition on behalf of claimants/appellants No.2 and 3 was dismissed.

Being not satisfied by the award, the claimants/appellants have filed this appeal with the prayer that the claim petition be also allowed on behalf of the claimants/appellants No.2 and 3 with further plea that the amount of compensation granted by the Tribunal was inadequate and requires to be enhanced.

I have heard learned counsel for the parties.

Learned counsel for the claimants/appellants contended that deceased-Bhajan Singh was bachelor and the claimants/appellants and respondent Nos.4 to 10 were dependent on his income. The parents of Bhajan Singh pre-deceased him. So, even claimants/appellants No.2 and 3 are also entitled to get compensation, they being nephews of the deceased.

Learned counsel for the claimants/appellants, while challenging the quantum of award, contended that the Tribunal wrongly observed that the dependency of the claimants/appellants and respondent Nos.4 to 10 on the deceased was 1/2. Actually, their dependency on the deceased was 3/4. It was further argued that the deceased-Bhajan Singh was 28 years of age and, as such, multiplier of '18' in place of '14' should have been applied. It was further contended that claimants/appellants and respondent Nos.4 to 10 are also entitled to get compensation under conventional heads and on account of future prospects, as per law laid down by the Hon'ble Apex Court in **National Insurance Company Ltd. Vs. Pranay Sethi and another, 2017(4) R.C.R**

(Civil) 1009. Learned counsel for the claimants/appellants further prayed that, accordingly, the impugned award be modified.

On the other hand, learned counsel for respondent No.3-Insurance Company contended that the claim petition was not maintainable under Section 163-A of the Act as the annual income of the deceased was more than Rs.40,000/-. Also, in this case, claimant/appellant No.1 and respondent Nos.4 to 10, being siblings of the deceased, and claimants/appellants No.2 and 3, being his nephews, were not dependent on him and, as such, the claim petition filed by them to get compensation on account of death of Bhajan Singh, who was bachelor, is not maintainable. It was further contended that the claim petition deserves to be dismissed on the ground of maintainability. It was further contended that if, the court comes to the conclusion that the claim petition filed by siblings of the deceased was maintainable, in that case, the quantum of compensation as assessed by the Tribunal, deserves no enhancement, it being just and proper. Learned counsel for respondent No.3 contended that appeal deserves to be dismissed.

I have considered the submissions made by the learned counsel for the parties.

In this case, no appeal was filed by respondent Nos.1 and 3 to challenge the impugned award.

There is no dispute that deceased-Bhajan Singh was bachelor and his parents pre-deceased him. Bhajan Singh met with an accident on 04.01.2003 and he died at the spot. The said accident was caused by respondent No.1-Charanjit Singh, while driving Truck No.PB-13-0595, which was owned by respondent No.2-Sandeep Singh and was insured with respondent No.3-National Insurance Company Ltd.. Admittedly, claimant/

appellant No.1 and respondent Nos.4 to 6 were brothers of the deceased, while respondent Nos.7 to 10 were sisters of the deceased. Claimants/appellants No.2 and 3 were sons of claimant/appellant No.1.

It is settled law that the claim petition can be made by the brothers and sisters, where the parents of the deceased are not alive. In this context, reference be made to **Gujarat State Road Transport Corporation, Ahmedabad Vs. Ramanbhai Prabhatbhai and another, 1987 ACJ 561**. This High Court in **Gurmail Singh Vs. Pepsu Road Transport Corporation, Patiala, 2003 ACJ 225**, while relying upon the aforesaid pronouncement of the Hon'ble Apex Court held that where the parents of the deceased are not alive, his brothers and sisters, being his legal representatives, can come forward and claim compensation on account of his death in a motor vehicle accident. So, in the present case, the Tribunal rightly observed that the claim petition, on behalf of the claimant/appellant No.1 and respondent Nos.4 to 10, was maintainable. At the same time, the Tribunal rightly held that claimants/appellants No.2 and 3, being the nephews of the deceased, were not entitled to get any compensation.

In the claim petition, it was specifically pleaded that the deceased was driver and his monthly income of Rs.3,000/- per month, which comes out to be less than Rs.40,000/- per annum. The Tribunal took the monthly income of the deceased as Rs.2,000/- per month, while treating him as a manual worker. So, the claim petition filed by claimant/appellant No.1 was maintainable under Section 163-A of the Act.

The deceased was 28 years of age and was bachelor. So, as per law laid down by the Hon'ble Apex Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) R.C.R.(Civil) 77**, multiplier of '17' should be applied in this case and deceased being bachelor, deduction of 50% is to be made towards his personal and living expenses. The Tribunal correctly assessed the monthly income of the deceased as Rs.2,000/-, after taking into consideration the evidence led by the claimants/appellants. In this case, no driving licence or any other document was produced by the claimants/appellants in order to establish that the deceased was trained professional driver. The Tribunal also rightly assessed the dependency of claimant/appellant No.1 and respondent Nos.4 to 10 on the deceased as 1/2. However, the multiplier of '14' applied by the Tribunal deserves to be enhanced to '17'. So, the total dependency of the above-said persons on the deceased comes out to be Rs.1000 X 12 X 17 = Rs.2,04,000/-.

The present claim petition was filed under Section 163-A of the Act and thus, is covered under Second Schedule of the Act. However, in **Puttamma and Others Vs. K.L.Narayana Reddy and another , 2014 ACJ 526**, the Hon'ble Apex Court observed that the Second Schedule of the Act, which was enacted in 1994 has become redundant, irrational and unworkable due to changed scenario including cost of living, current rate of inflation and increased life expectancy. Subsequently, the Hon'ble Apex Court in **National Insurance Company Ltd. Vs. Pranay Sethi's case (supra)**, fixed reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses as Rs.15,000/-, Rs.40,000/- and Rs.15,000/-, respectively, which should be enhanced at the rate of 10% in every three years. Accordingly, in the present case, funeral expenses are assessed as Rs.15,000/- and loss of estate is also assessed as Rs.15,000/-. However, claimant/appellant No.1 and respondent Nos.4 to 10 are not entitled to get compensation on account of loss of consortium, as the same is available only to the spouse.

As per the law laid down in **National Insurance Company Ltd. Vs. Pranay Sethi's case (supra)**, another 40% of the established income may be added on account of future prospects. In the present case, deceased was 28 years of age and was bachelor. He would have, in due course of time of next two years, been married and started his family. Thus, the accretion of his monthly wages, if any, that would have occurred on account of future prospects, would not have resulted in proportionate enhancement of the amount of dependency. In this case, future prospects are to be taken into consideration for only two years, as by that time, the deceased would have been married. In these circumstances, the total compensation on account of future prospects comes out to Rs.9,600/-.

In the light of the above, the total amount of compensation in this case comes out to be Rs.2,43,600/-. So, in this case, the award passed by the Tribunal is to be enhanced by Rs.75,600/-. Resultantly, this appeal is partly allowed and it is held that claimant/appellant No.1 and respondent Nos.4 to 10 are entitled to get enhanced compensation worth Rs.75,600/- along with interest at the rate of 6% per annum from the date of filing of the appeal till its realization, in equal shares. Respondent Nos.1 to 3 are jointly and severally liable to pay the said enhanced amount of compensation.

(KARAMJIT SINGH)
JUDGE

30.06.2020
adhikari

Whether speaking/non-speaking : Yes/No
Whether reportable : Yes/No