IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Cross Objections-99CII/92
FAO-1015-1992 (O&M) &
Reserved on: 22.09.2022
Date of Decision: September 27, 2022

Ashok Kumar …Appellant

Versus

Kalawati and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Dinesh Saini, Advocate for the appellant.
Mr. R.S. Sangwan, Advocate for respondent No.6.
Mr. Gaurav Jindal, Additional Advocate General, Haryana.

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HARKESH MANUJA, J.

This order of mine shall dispose of appeal filed against the impugned award dated 30.03.1992 passed by learned MACT, Bhiwani, hereinafter referred to as 'the Tribunal', at the instance of owner-respondent No.2 who is aggrieved of the liability imposed upon him, as well as the cross-objections at the instance of the claimants-respondents No.1 to 5 seeking enhancement of compensation.

Brief facts leading to the present case are that on 18.01.1991, Mir Singh aged about 40 years, who was travelling in a tempo bearing registration No. MHP-196 met with an accident and died. At the time of accident, the Tempo was being driving by respondent No.1 and the same got struck against Bus bearing registration No. HNB-2353. Respondents No.1 to 5 herein, being dependents upon deceased Mir Singh filed a claim petition before learned Tribunal seeking compensation to the tune of Rs.5 lacs. The appellant herein was impleaded being the registered owner of the Tempo; whereas respondent no.6, herein was impleaded as Driver of the Tempo. Similarly, respondent No.7, herein was impleaded being Driver of the Bus bearing No. HNB-2353. Respondents No.1 to 5 alleged rash and negligent driving on the part of respondent No.6.

In response, respondent No.6 filed his written statement admitting the factum of accident, however, denied the rash and negligent driving on his part. The appellant herein though, registered owner, as per the records maintained by the Registration Authorities, took a plea that the Tempo in question already stood sold in favour of respondent No.6 against a receipt dated 17.06.1990 and thus, he had no liability as regards the accident in question.

Learned Tribunal vide its impugned award dated 30.03.1992 recorded a finding of rash and negligent driving against respondent No.6. On the issue of liability, it was held that the present appellant being the registered owner was liable to pay the compensation awarded in favour of the claimants. Learned Tribunal awarded a sum of Rs.1,35,000/- in favour of respondents No1 to 5 by holding the income of the deceased to be Rs.12000/- per annum, after making a deduction of Rs.3,600/- per annum, thereupon on account of his self expenses. Learned Tribunal after considering the age of the deceased to be about 40 years applied multiplier of 16, besides awarding a sum of Rs.600/- on account of funeral expenses.

In the present appeal, it has been contended on behalf of learned counsel for the appellant, who is registered owner of the Tempo in question, that once the vehicle i.e. Tempo stood sold in favour of respondent No.6 against a duly signed receipt dated

17.06.1990, which was proved on record as Ex.P1 followed by an affidavit dated 22.04.1991 given by respondent No.6 (Ex.P2), the liability to pay compensation should have been fastened upon respondent No.6, instead of the present appellant.

On the other hand, it has been submitted on behalf of respondent No.6 that once the present appellant was recorded to be registered owner of the Tempo in question with the Registering and Licencing Authority, mere execution of receipt regarding transfer of the vehicle would not be sufficient to fasten liability upon respondent No.6. In support of this contention, learned counsel relied upon the judgment of **Naveen Kumar Vs. Vijay Kumar and others**, 2018 (2) RCR (Civil) 74.

Having heard learned counsel for the parties and going through the paper-book, I do not find any merit in the contention raised on behalf of the appellant. Once a specific finding has been recorded by the learned Tribunal to the fact that it is the appellant whose name still finds recorded as an owner of the vehicle in question i.e. Tempo, with the Registering and Licencing Authority, he cannot be discharged of his liability to pay compensation. Despite there being receipt dated 17.06.1990 (Ex.P1) having been proved on record regarding the sale of Tempo by the present appellant in favour of respondent No.6, the liability to pay compensation cannot be fastened upon respondent No.6 in the absence of his name having been incorporated with the registration authorities being the owner of the vehicle in question in place of the present appellant.

My view in this regard is derived from the reasoning recorded by the Hon'ble Supreme Court in **Naveen Kumar's** case (supra) and relevant part of para 12 of the said judgment is reproduced hereunder for reference:-

> *"12. …….. Parliament has consciously introduced the definition of the expression 'owner' in Section 2(30), making a departure from the provisions of Section 2(19) in the earlier Act of 1939. The principle underlying the provisions of Section 2(30) is that the victim of a motor accident or, in the case of a death, the legal heirs of the deceased victim should not be left in a state of uncertainty. A claimant for compensation ought not to be burdened with following a trail of successive transfers, which are not registered with the registering authority. To hold otherwise would be to defeat the salutary object and purpose of the Act. Hence, the interpretation to be placed must facilitate the fulfilment of the object of the law. In the present case, the First respondent was the 'owner' of the vehicle involved in the accident within the meaning of Section 2(30). The liability to pay compensation stands fastened upon him. Admittedly, the vehicle was uninsured. The High Court has proceeded upon a misconstruction of the judgments of this Court in Reshma and Purnya Kala Devi. The submission of the Petitioner is that a failure to intimate the transfer will only result in a fine under Section 50(3) but will not invalidate the transfer of the vehicle. In Dr T V Jose, this Court observed that there can be transfer of title by payment of consideration and delivery of the car. But for the purposes of the Act, the person whose name is reflected in the records of the registering authority is the owner. The owner within the meaning of Section 2(30) is liable to compensate. The mandate of the law must be fulfilled."*

In view of the above, I do not find any merit in the appeal filed at the instance of the appellant/owner and the same is, therefore, dismissed.

CROSS-OBJECTIONS:

Respondents No.1 to 5 being the claimants have filed the present cross-objections seeking enhancement of compensation.

It has been submitted on behalf of the cross-objectors/ respondents No.1 to 5 that the compensation awarded in their favour needs to be enhanced on the following grounds:-

(i) Keeping in view the fact that the deceased had to take care of his mother, widow and three children, the dependency should have been determined by applying appropriate deduction of 1/4th towards self-expenditure;

(ii) Deceased being the self-employed and considering his age to be about 40 years, future prospects @ 40% should have been awarded;

(iii) Higher compensation should have been awarded under the conventional heads including consortium, loss of estate and funeral expenses.

On the other hand, learned counsel for the appellant/ owner submits that respondents No.1 to 5 have already been awarded just and adequate compensation and as such the award does not warrant any interference.

Having heard learned counsel for both the parties and going through the paper-book as well as records of the case, I find force in the contentions raised on behalf of the claimants/appellants. In view of the judgment of Supreme Court in ***Sarla Verma & Ors vs. Delhi Transport Corporation & Anr. (2009) 6 SCC 121***, considering the age of the deceased to be 40 years, multiplier of '16' has rightly been applied by the learned tribunal. Further, as the number of dependents of the deceased were five, (mother, widow, and three children), deduction on account of self-expenditure of the deceased should have been 1/4th; rather than 1/3rd.

Besides this, with respect to the compensation awarded under the other conventional heads, applying the principles of law laid down by Hon'ble Supreme Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and others,*** *2017 (4) RCR (Civil) 1009*, the claimants are entitled for Rs.15000/- as compensation under the head of funeral expenses, loss of consortium (parental, spousal and filinial) is to be awarded to the tune of Rs.40,000/- x 5 (Rs.2,00,000/-) and Rs.15,000/- towards loss of estate under the conventional heads.

As regards, the grant of future prospects is concerned, as per the findings recorded by the learned Tribunal, the deceased was aged about 40 years. Nothing contrary to it has been pointed out on behalf of learned counsel for the appellant so as to show that the deceased was either 40 years of age or more than that and as such taking note of the findings recorded by the learned Tribunal as regards the age of deceased to be about 40 years, being self-employed, thus, in view of the law laid down in ***Pranay Sethi's*** *case (supra)*, future prospects @ 40% of the annual income are to be awarded.

In view of what has been stated hereinabove, the appellants/claimants shall be entitled for the grant of following compensation:-

Sr. No.	***Nature***	***Amount in Rupees***
1.	*Annual Income of deceased (Rs.1000 x 12)*	*Rs.12,000/-*

2.	*Add 40% of Future prospects*	*Rs.4800/-*
3.	*Total Income (Rs.12,000/- + Rs.4800)*	*Rs.16,800/-*
4.	*Deduction 1/4th (Rs.16,800/4)*	*Rs.4200/-*
5.	*Multiplier of 16 as per age of 40 years (Rs.12,600 /- X 16)*	*Rs.201600/-*
6.	*Funeral Expenses*	*Rs.15000/-*
7.	*Loss of Consortium (Rs.40000x5)*	*Rs.2,00,000/-*
8.	*Loss of Estate*	*Rs.15000/-*
	Total Compensation	*Rs.4,31,600/-*
	Amount Awarded by the Tribunal	*Rs.1,35,000/-*
	Enhanced Amount	*Rs.2,96,600/-*

Needless to mention here that the amount of compensation already paid to the claimants shall be deducted from the enhanced compensation and the balance shall be paid in their favour along with interest as awarded by learned Tribunal.

Disposed off in the above terms.

Pending miscellaneous applications, if any, stand disposed of.

September 27, 2022 **(HARKESH MANUJA)**
sanjay **JUDGE**

Whether speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*