

254 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-1350-2018 (O&M)
Decided on : 23.03.2022

General Manager PEPSU Road Transport Corp., Ludhiana Appellant

Versus

Monika Devi and others Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Aman Sharma, Advocate
for the appellant.

Mr. Davinder Singh, Advocate
for respondents No.1 to 5.

Mr. Sarvesh Malik, Advocate
for respondent No.6.

Manjari Nehru Kaul, J.(Oral)

Instant appeal has been filed by the appellant-General Manager, PEPSU Road Transport Corp.(owner) of the vehicle in question, impugning the award dated 05.12.2017 passed by Motor Accidents Claim Tribunal, Ludhiana (hereinafter referred as 'the Tribunal').

Brief facts of the case are that while Pavinder Kumar (hereinafter called deceased) along with his brother Ravinder Kumar was going on a motor cycle bearing registration No.PB-10EL-1168 on 15.05.2016, Punjab Roadways Transport Corporation Bus bearing No.PB-10FF-4316 (hereinafter called 'bus') being rashly and negligently driven by respondent No.6 – Kamaljit Singh hit the motorcycle of the deceased from the rear side. Resultantly, the deceased fell on the road. The

aforesaid bus ran over the deceased, who died as a result thereof. The Tribunal awarded compensation in the sum of Rs.22,89,616/- along with interest @ 8% per annum from the date of filing of petition till its actual realization.

Learned counsel for the appellant has assailed the impugned award primarily on the following grounds:

- (i) that the factum of the bus bearing registration No.PB-10FF-4316 being involved in the accident stood falsified from the fact that the motorcycle bearing No. PB-10EL-1168 on which the deceased was riding was intact with no visible damage.
- (ii) that the alleged accident took place at about 2.00 pm and it was a matter of record that the bus in question was standing at Laddowal Toll Plaza at about 2.13 pm, which was 10-15 kms away from the place of accident. Hence, the involvement of the bus in the accident did not arise.
- (iii) that no qualitative evidence had been led with respect to the income of the deceased. As per the claimants, the deceased was working in Mahavir Spinning Mill Ltd and earning Rs.20,000/- per month. However, during the cross-examination of his widow – Monika Devi as PW-1, she failed to bring on record any documentary evidence in support of the same. Moreover, the reliance placed on Ex.PC, which was a

certificate issued by Vardhman Yards and Threads Ltd. to prove the income of the deceased (wherein his income was shown to be Rs.10,276/- per month) demolished their case qua the deceased being in the employment of Mahavir Spinning Mill Ltd. and that it evidently on the face of it was a procured document.

In support of his submissions, learned counsel drew the attention of this Court to the deposition (Annexures A-2 and A-3) of both PW-1 Monika Devi (widow of deceased) as well as PW-2 Ravinder Kumar (brother of the deceased), who allegedly was with the deceased at the time of the accident.

Learned counsel for the respondents opposed the submissions made by the counsel opposite, about there being no documentary evidence to support the income of the deceased. It was urged that no doubt the deceased was working in Mahavir Spinning Mill Ltd. and the certificate of employment had been issued by Vardhman Yards and Threads Ltd., however, since Mahavir Spinning Mill Ltd. was a subsidiary of Vardhman Yards and Threads Ltd., no question mark could be raised qua the authenticity of the certificate of the employment of the deceased as well as his income. Hence, the objection raised by the Insurance Company was devoid of any merit.

Heard learned counsel and perused the impugned award passed by the Tribunal.

The first contention of learned counsel for the appellant that the bus in question could not have been and was not involved in the accident,

which led to the death of the deceased, deserves to be rejected. It would be most relevant to refer to the deposition of PW-2 Ravinder Kumar i.e. brother of the deceased and eyewitness to the accident in question (Annexure A-3). A perusal of his evidence, in particular to his cross-examination reveals that a suggestion was put to him that there was heavy rush on the road at the time of the alleged accident and that the bus was thus, being driven at a slow speed. This suggestion by itself is an admission on the part of the appellant that the bus was indeed involved in the accident in question. In the circumstances, all other arguments raised by the learned counsel for the appellant qua there being no visible damage to the motorcycle of the deceased, which the latter was riding at the time of accident and even the disputed presence of the bus at the place of occurrence pales into insignificance.

It needs to be reiterated that in such cases as the one in hand, the claimants are not required to prove their case in the same manner as is done in a criminal trial where the prosecution is required to prove its case beyond reasonable doubt. Hence, after considering all the arguments raised by the learned counsel for the appellant, this Court expresses its inability to agree with his submissions that preponderance of probability would shift against the claimants. Consequently, this Court upholds the finding of the Tribunal that the accident took place due to rash and negligent driving of the driver of bus bearing registration No.PB-10FF-4316.

Coming to the next contention qua the income of the deceased, which as per learned counsel for the appellant has been assessed on higher side, this Court regrets its inability to agree with him. The family of the

deceased could not produce any evidence to prove his income as Rs.20,000/- per month, however, the Tribunal took his income as Rs.10,276/- per month as per salary certificate Ex.PC, which is just marginally above the minimum wages of a skilled worker i.e. Rs. 9,135/- per month as per the notification of Govt. of Punjab for the relevant year 2016.

As a sequel to the above, this Court does not find any ground to interfere in the impugned award passed by the Tribunal. Accordingly, the present appeal stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

23.03.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No