

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

FAO-753-1991 (O&M)
Date of decision: 20.12.2023

PRTC PatialaOwner-Appellant

Versus

Taranjit Kaur and others Respondents

FAO-1011-1992 (O&M)

Taranjit Kaur and othersClaimant-Appellants

Versus

Gurdev Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the claimants.

Mr. Aman Kumar, Advocate for
Mr. Harsh Chopra, Advocate
for owner of the offending bus-Pepsu Roadway

AMAN CHAUDHARY, J.

1. Both the aforesaid appeals arising out of the same award, shall be decided by a common judgment.
2. The owner-PRTC of the offending bus has filed FAO-753-1991 challenging the findings recorded by the Motor Accident Claims Tribunal, Patiala (for short ‘the Tribunal’) vide award dated 08.04.1991, whereas FAO-1011-1992 is by the claimants for enhancement of compensation awarded on account of death of Harbans Singh in a motor vehicular accident.
3. These are reconstructed cases, as the original files were burnt in the fire that broke out in the concerned branch in the year 2011. Since the

cases are pending for more than 31/32 years, the counsel for the owner-PRTC has no objection, if the same are decided on the basis of the available record.

4. Learned counsel for the owner-PRTC submitted that the Tribunal committed an error while holding the driver of the bus negligent, however, from the evidence, the driver of the car, in which the deceased was travelling, was himself responsible for the accident. Further, the compensation awarded by the Tribunal is excessive by applying a higher multiplier, thus, prays for the dismissal of the appeal of the claimants.

5. It is averred in the grounds of the appeal filed by the claimants that the deceased, a 42 year old, Superintendent of Police left behind his wife, three minor children and mother. At that time, he was drawing a salary of Rs.11,000/- per month, however, the Tribunal wrongly assessed the monthly dependency as Rs.3,000/-. Nothing has been awarded towards funeral expenses, future prospects of increase in income, loss of consortium and filial consortium to the children.

6. Heard and perused.

7. It is apposite to refer to the evidence that weighed with the Tribunal while deciding the issue regarding negligence of the driver of the bus, which is that, "The only witness, who has not cared to take sides, even with his employers and who appears to have put forth the version which was correct, according to him, is Constable Kuljit Singh (PW.2). He states that he was travelling in the car, which was being driven by Mohan Singh and that the car reached near the gate of the Bahadurgarh fort Mohan Singh driver had slowed down the car and then took a turn towards the gate of the and was bringing down the car from the main road towards the side of the gate

when a bus came, from the opposite direction i.e. from the Rajpura side, at a great speed of 70/75 kms per hour and then the bus and the car struck each other. According to him the left side of the bus from its front side had struck against the left rear of the window/door of the car. He was sitting on the right side of the car and he claims that he was thrown out of the car, whereas Sh. Harbans Singh Boparai, S.P. (operation), who was sitting on the back seat of the car towards the left and Constable Bant Ram, who was sitting on the front seat of the car towards left were both crushed in the car as the left side of the car capsized under the impact. ... He further states that both the left front and rear tyres of the bus were on kacha berm when it struck against the left door of the car by its left side” The Tribunal consequently held thus:

“22. Clearly it is not a case of contributory negligence. No doubt, the facts of the case Ram Singh vs. State of Punjab and others 1989 ACJ 1048 may appear to be similar to those of the present case inasmuch as both the driver of car and that of the bus have deposed that each had seen the vehicle of the other, yet in the above cited case, neither the victim nor the offender slowed down, nor they took precaution before entering the crossing to ensure that the crossing was clear before they entered it. But in the present case, considering the entire evidence led on this point through the statements of the above discussed witnesses, as well as the circumstantial evidence collected, after the accident, led through the statements of S.I. Chaman Lal (PW3), Sh. O.P. Trehan (Rw1)(Depot Manager of PRTC) and which pertains to the report Ex.R.1, discussed earlier, I find that had not it been the negligence and rash driving of Gurdev Singh of his bus, first turning a little towards his right and then bringing down his bus to his entire left side and not having been able to stop the bus till he drove it into the Tahli tree standing at a distance of 60/70 yards of the accident, what to speak of having first struck against an electric pole and earlier to it against the ill-fated car, the accident of such magnitude would not have occurred.

23. .. Issue No.1 of MACT 25T/90 (Taranjit Kaur etc. vs. Gurdev Singh etc.) is decided to the effect that accident was not caused due to alleged rash and negligent driving of his car by Mohan Singh and the same was caused by rash and negligent driving of his bus No.PJG-7113, by Gurdev Singh driver. Issue No.1 of MACT 19T/1989 (PRTC vs. Mohan Singh and another) is decided against

the claimant of that petition and it is held that bus No.PJG-7113 was damaged but not due to any alleged rash and negligent driving of the car PAJ-19 by its driver Mohan Singh”

8. It is apparent that the Tribunal meticulously examined the evidence and no glaring defect in the procedure or any patent error has been shown to have been committed in ignorance of law, while arriving at the conclusion aforesaid, which may have resulted in flagrant miscarriage of justice. Thus, no intervention at the hands of this Court is warranted in the finding regarding rash and negligence on the part of the driver of the bus owned by PRTC.

9. There being no dispute that Harbans Singh, Superintendent of Police (Operations), died in a motor vehicular accident caused by Gurdev Singh-driver of the offending bus. The last pay certificate of the deceased i.e. Ex. PW4/A was proved on record and thus, as per the same, the Tribunal rightly took his salary as Rs.4630/-per month. For the aspect of enhancement of compensation, the dictum of law laid down in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009(3) RCR (Civil) 77, **National Insurance Company Limited vs. Pranay Sethi and others** 2017(4) RCR (Civil) 1009 and **Janabai vs. ICICI Lambord Insurance Co. Ltd.**, (2022) 10 SCC 512, can gainfully be relied, consequent whereupon the claimants are held entitled to grant of future prospects to the extent of 30%, the deceased being a Govt. employee as also under the conventional heads an amount of Rs.36000/- for funeral expenses and loss of estate and Rs.2,40,000 (48,000 x 5) for filial consortium to the claimants, who are, his widow, mother and three children. Since the deceased was 42 years of age, the multiplier of 14 ought to have been applied and there being five dependents, the deduction of 1/4th should have been made towards his

personal expenses.

10. Sequentially, the total compensation comes to Rs.10,34,394/- (4630 (monthly income) + 30% (towards future prospects)- 1/4th (deduction) x 12 x 14 (multiplier) +Rs.2,76,000/- (conventional heads). Thus, the enhanced compensation of Rs.4,94,794/-, over and above the amount of Rs.6,10,000/- already awarded by the Tribunal, alongwith interest at the rate of 7.5% per annum from the date of filing of the present appeal, till its realization, shall be paid to the claimant-appellants by the respondent-PRTC, as ordered by the Tribunal, within a period of 2 months from the date of receipt of a certified copy of this judgment, failing which, the amount shall accrue an interest as awarded by the Tribunal.

11. Modifying the award to the aforesaid extent, FAO-1011-1992 of the claimants stands partly allowed, whereas FAO-753-1991, by the owner-PRTC of the offending bus, being sans merit, is hereby dismissed.

12. Registry is directed to send a copy of the judgment to the concerned Tribunal for necessary compliance.

13. Photocopy of the judgment be also placed on the file of the connected case.

20.12.2023
M.Kamra

(AMAN CHAUDHARY)
JUDGE

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