

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

263

FAO-2408-2019 (O&M)

Date of Decision: 25.07.2023

PEPSU ROAD TRANSPORT CORPORATION & ANR

.....*Appellants*

Versus

DAVINDER KAUR & ORS

.....*Respondents*

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH.

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

GURBIR SINGH, J.

1. This appeal is filed by the owner of the offending bus bearing No. PB-19-H-9826 against the award dated 21.11.2018 passed by the learned Motor Accident Claims Tribunal, Ludhiana, whereby claim petition for grant of compensation filed by claimants/respondents No.1 to 4 under Section 166 of the Motor Vehicles Act was partly allowed and the claimants were held entitled to recover a sum of Rs. 7,62,000/- as compensation alongwith interest @ 6% per annum from the date of filing of the claim petition till the realization of the amount from the owner i.e. appellants and driver of the offending bus.

2. As per case of the claimants, on 03.01.2018, Pritpal Singh deceased was going from Sangerha to Bhadalwad in bus bearing No. PB-19-H-9826 in which other persons were also traveling and the same was being driven by Jaspal Singh-respondent No.3 in a rash and negligent manner at a very high speed and some passengers even advised respondent No.3- Jaspal Singh to slow down the bus but he did not bother. At about 6:30 P.M, the said bus reached at bus stand Bhadalwad where passengers started alighting from the bus and when Pritpal Singh since deceased was in

FAO-2408-2019(O&M)

process to alight from that bus then Jaspal Singh accelerated the said bus and had started to drive the same in rash and negligent manner without waiting to close the doors of the bus and without the confirmation from the conductor whether all the passengers were alighted from the bus or not. Due to the jerk, Pritpal Singh fell down from the bus and consequently, he had received multiple injuries and was taken to Civil Hospital Barnala where he succumbed to the injuries received by him in the accident which is the result of rash and negligent driving of the bus. The respondents No.1 and 2 only contested the petition and denied the accident and also denied the averments of the petition. Respondent No.3-Jaspal Singh was proceeded against ex-parte.

3. From the pleadings of parties, the following issues were framed:

- a Whether Pritpal Singh son of Dan Singh had died in accident in question, caused by respondent no.3 Jaspal Singh while driving bus bearing no. PB-19-H-9826 in rash and negligent manner? OPP.
- b Whether the claimants, being legal heirs of deceased Pritpal Singh are entitled to compensation as prayed for? OPP.
- c Whether present claim petition is not maintainable? OPR
- d Whether no accident had taken place with bus bearing no. PB-19-H-9826 as alleged by the claimants in the present claim petition? OPR
- e Whether the claimants have not come to the Court with clean hands as they have mentioned false facts in the present claim petition? OPR
- f Whether the present claim petition is bad for misjoinder of the party? OPR
- g Relief.

4. In order to prove their case, claimant No.1-Davinder Kaur herself appeared as CW1. The claimants also examined CW2-Baldev Singh @ Billu and CW3-Balpinder Singh as eyewitnesses of the accident in question. Thereafter, ld. counsel for the claimants closed evidence on behalf

FAO-2408-2019(O&M)

of the claimants after tendering documents i.e. copy of FIR Ex.C1, copy of statement of Balpinder Singh recorded under Section 161 Cr.P.C.Ex.C2, copy of postmortem examination report of Pritpal Singh (since deceased) Ex.C3, copy of registration certificate of canter bearing no. PB-10-CC-6716 Ex.C4, copy of jamabandi for the years 2011-2012 Ex.C5 and copy of bus ticket dated 03.01.2018 Mark 'A' and closed the evidence.

5. The respondents No.1 and 2 examined RW1 Sakhi Mohd. Sub Inspector, Pepsu Road Transport Corporation. He produced identity card as Ex.R1 and copy of yard control register as Ex.R2. Respondents failed to lead evidence and their evidence was closed by an order.

6. On the basis of evidence led on the file, the learned Tribunal came to the conclusion that from the statements of Baldev Singh @ Billu CW2 and Balpinder Singh CW3, eye witnesses of the accident and the case was registered against the driver of the bearing No.PB-19-H-9826 and driver/respondent No.3 did not come forward to contest the petition or agitated the matter that no FIR has been registered against him. It is clearly established that Pritpal Singh (since deceased) had died in the motor vehicle accident caused due to rash and negligent driving of the offending bus by respondent No.3. The income of the deceased was assessed as Rs.6,000/- per month equivalent to the unskilled labourer and 1/4th income of the deceased was deducted as personal expenses, keeping in view that the four number of family members were dependents on the deceased. As Pritpal Singh was 50 years old at the time of death, so multiplier of 13 was adopted. A sum of Rs.30,000/- was awarded as transportation and last rites and Rs.30,000/- was awarded towards loss of estate, and thus, total compensation of Rs.7,62,000/- was awarded in the case.

FAO-2408-2019(O&M)

7. Learned counsel for the appellants has argued that appellants denied the factum of accident. The involvement of the bus in question was not proved. The yard control register Ex.R2 was proved from which it is fully established that bus in question was parked at Barnala bus stand at 6:26 P.M and the alleged place of accident i.e. Bhadalwadh bus stop was quite far from Barnala bus stand. So there was no question that bus in question was at Bhadalwadh bus stand at the time of accident mentioned in the FIR Ex.C1. RW-1 was not cross-examined. Entry in the yard control register remained unrebutted. No document was proved regarding income of the deceased and 1/3rd of income was required to be deducted towards personal expenses of the deceased instead of 1/4th. The learned Tribunal failed to take into consideration the judgment of *National Insurance Company Ltd. Vs. Pranay Sethi & Ors 2017(4) RCR (Civil) 1009* for granting amount of compensation under the conventional heads.

8. I have heard the submissions of the learned counsel for the appellants. The appellants examined Baldev Singh @ Billu CW2 and Balpinder Singh CW3. The FIR regarding accident in question is proved as Ex.C1. Neither driver of the bus i.e. respondent No.3 nor conductor of the bus has been examined to rebut the evidence of eye witnesses. Moreover, there is nothing on record that driver of the bus ever agitated registration of case against him. The bus in question belongs to the State of Punjab. If the bus in question was not involved in the accident, then it was not possible to get the instant FIR lodged naming the driver of the bus involved in the accident. It is highly improbable that police authorities would register a false FIR against the driver of the bus of State transport.

9. The FIR in this case was registered on the statement of Baldev

FAO-2408-2019(O&M)

Singh @ Billu. No specific question was put to him that the bus in question was not there at Bhadalwad at the time of accident. Rather, a question was put to said witness that it was correct that the passengers had come down from the bus at Bhadalwad. A suggestion was given that Pritpal Singh was not passenger of the bus; the driver of the bus did not gear up the bus or that due to same, the passenger had not fallen down from the bus. Thus, the appellants admitted the accident with said bus.

10. No doubt appellants/respondents proved one yard control register Ex-R2. It has been shown that bus in question had left Barnala bus stand at 6:26 PM but that document is not sufficient to come to the conclusion that said bus actually left Barnala bus stand at 6:26 P.M. It is shown in Ex.R2 that the said bus reached the Barnala Bus Stand at 05:30 P.M. It is well known that time-table is hardly adhered to by officials of State Transport Corporation. The driver and conductor of bus could tell when bus reached Bhadalwad. They were not examined. The eye witnesses have duly proved the accident. Moreover, it is common knowledge that buses of Pepsu Roadways Transport Corporation are peculiar and identifiable on mere glance and it is not difficult to know that bus belongs to said transport corporation on casual look.

11. The parties are required to bring the best evidence. There is no explanation why driver or conductor of the bus was not examined. No reliance can be placed on the entry of the yard control register. The proceedings before the Tribunal are civil in nature. The normal rule that governs civil proceedings is that a fact can be said to be established if it is proved by preponderance of probabilities. Thus, I am of the view that learned Tribunal has rightly held that Pritpal Singh died in accident caused

FAO-2408-2019(O&M)

by respondent No.3 while driving the bus bearing No.PB-19-H-9826 in a rash and negligent manner. It is the version of the claimants that Pritpal Singh has his own Canter and was doing the work of transport. He was earning Rs. 60,000/- per month from his transport business but learned Tribunal assessed his income to the tune of Rs.6000/- per month income of an unskilled labourer. Since he was hale and hearty and having some agricultural land as well as he was owning a canter so assessing his income as unskilled labourer cannot be considered at higher side. In view of the age, the multiplier of 13 was applied. Pritpal Singh left behind his widow, two children and mother, who were dependent upon him. No evidence is led by the respondents that mother of the deceased was not dependant upon him, so 1/4th deduction as personal expenses is in accordance with the binding precedents. In case of ***Pranay Sethi (supra)*** a sum of Rs.70,000/- was awarded under conventional heads. In the case in hand only a sum of Rs. 60,000/- has been awarded under the conventional heads, Rs. 30,000/- towards loss of estate and Rs.30,000/- towards transportation and last rites, which is not on the higher side. The learned Tribunal has awarded just compensation.

12. In view of the above discussion, I do not find any illegality and infirmity in the award passed by learned Tribunal. The appeal is without any merit and it is dismissed accordingly.

13. Pending application, if any, shall also stand disposed of.

25.07.2023.

renu

(GURBIR SINGH)
JUDGE

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