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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Reserved on:- 20.07.2023

Pronounced on:- 18.08.2023

Om Pati Devi and another

...Appellants

Versus

Anil and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Kulvir Narwal, Advocate
for the appellant/claimant.

Name of appellant No. 2 Roop Basant struck off
vide order dated 09.05.2005.

Mr. N.K. Manchanda, Advocate
for respondent No. 3 – Insurance Company.

AMARJOT BHATTI, J.

1. The appellants – Om Pati Devi and Roop Basant (since deceased being represented by his legal heir appellant No. 1) has filed present appeal against impugned Award dated 18.12.2000 passed by learned Motor Accident Claims Tribunal, Rohtak vide which the appellants/claimants have been awarded compensation of Rs.1,70,000/- alongwith interest @15% per annum from the date of claim petition till realization of the entire amount to be paid by the respondents No. 1 to 3, jointly and severally, as detailed therein.

2. The facts of the case are that Om Pati Devi and Roop Basant (since deceased) filed claim petition under Section 166 of the Motor

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Vehicles Act, 1988 for grant of compensation of Rs. 4,00,000/- alongwith interest @18% per annum on account of death of their son Ranjit Singh in a motor vehicular accident on 11.11.1997. Late Ranjit Singh was about 21 years old at the time of accident. He was doing a private job and was earning Rs.3,000/- per month from all sources. On the fateful day of 11.11.1997, Harinder Singh – respondent No. 5 was plying Tempo bearing No. HR-46-2705 from Dadri to Village Mirch. Late Ranjit Singh, Rajiv alongwith other passengers were travelling in the aforesaid Tempo. At about 05:45 P.M. when the Tempo reached near Kamod Chowk, a truck bearing No. HR-46-6447 which was being driven by respondent No. 1 Anil Kumar came from the wrong side in a rash and negligent manner and hit the aforesaid Tempo, as a result, Rajiv and Ranjit received multiple injuries. Ranjit Singh received injuries on left, right arm beside head injuries. The respondent No.1 driver Anil noticed critical condition of the injured but despite that he escaped, leaving behind his truck at the spot. Rajeev and Ranjit Singh were taken to Civil Hospital, Dadri for medical treatment and from there they were referred to PGI, MS Rohtak. Ranjit Singh succumbed to his injuries on 07.12.1997. On the statement of Harinder Singh, FIR No. 183 dated 12.11.1997, under Section 279/337 of IPC was registered at Police Station Bond Kalan. After the death of Ranjit Singh, the offence under Section 304-A of IPC was added. Hence the claim petition.

3. The claim petition was contested by respondents No. 3 and 6. In the written statement filed by respondent No. 3 i.e. National Insurance Company Limited, the preliminary objections regarding cause of action and not possessing any valid and effective driving license were taken. It is

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submitted that at the time of alleged accident, the driver of offending Truck bearing No. HR-46-6447 was not possessing any valid and effective driving license, as such the insurance company is not liable to pay any compensation to the petitioners. On merits, it is denied that respondent No. 3 was driving the offending Truck in a rash and negligent manner and hit the Tempo by coming on wrong side. Infact, the alleged accident was caused due to sole negligence of Tempo driver – respondent No. 5. The respondent No. 3 specifically denied the factum of accident. While denying the remaining averments, prayed for dismissal of claim petition.

4. In the written statement filed by respondent No. 6, preliminary objections regarding jurisdiction and maintainability were taken. It is submitted that respondent No. 5 was not driving the vehicle as per the terms and conditions of the policy and law. The alleged accident was caused due to sole rash and negligent driving of respondent No. 1. The insurer did not inform the answering respondent about the alleged accident as per the terms and conditions of the policy. On merits, the respondent No. 6 has denied its liability to pay any compensation to the petitioners. Hence, it was prayed that the claim petition may be dismissed with costs.

5. From the pleadings of the parties, following issues were framed by the Tribunal on 19.02.1999:-

(1) Whether the accident in question had taken place due to rash and negligent driving of Anil respondent No. 1, while driving Truck bearing registration No. HR-46-6447, owned by and during the course of employment of respondent No. 2, in which Ranjit Singh s/o Roop Basant had died and petitioner Rajiv sustained injuries? OPP

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(2) If issue No. 1 is proved, to what amount of compensation, the petitioners are entitled to and from whom?

OPP

(3) Whether respondent No. 1 was not holding a valid driving license at the time of accident, if so, its effect? OPR

(4) Relief.

6. In order to prove the claim petition, the appellant No. 1 Om Pati Devi herself stepped into the witness box as PW-1. She also examined Krishan Kumar, Ahlmad to the Court of Sh. R.K. Dogra, JMIC, Charkhi Dadri as PW-2, Sumeer Kumar, R.K. PGI, MS, Rohtak as PW-3, Dr. Amarjit Singh as PW-4, Dr. K.C. Mudgil, Professor Orthopedics Surgery, PGI, MS, Rohtak as PW-5, Rajiv Kumar as PW-6 and Rajesh Kumar as PW-7. Thereafter, learned counsel for the petitioners tendered in evidence documents/bills Mark-A to Mark-D and closed the evidence.

7. In order to rebut the case of the claimants/petitioners, no witness was examined by respondents No. 3 and 6. However, respondents No. 3 and 6 tendered in evidence copy of policy Ex.R-2 and insurance policy Ex.R-1 and closed the evidence.

8. After hearing the arguments advanced by learned counsel for the parties, the claim petition filed by the claimants Om Pati Devi and Roop Basant (since deceased) was allowed by passing impugned Award dated 18.12.2000, as referred above. Feeling aggrieved of this Award, the present appeal has been preferred by appellants – Om Pati Devi and Roop Basant (since deceased).

9. I have heard the arguments of learned counsel for the appellants as well as learned counsel representing the contesting respondents. The learned counsel for the appellants/claimants argued the

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present appeal on the quantum of compensation awarded by the learned Motor Accident Claims Tribunal, Rohtak vide Award dated 18.12.2000. It is pointed out that the learned Motor Accident Claims Tribunal, Rohtak failed to consider that the deceased victim remained admitted in the hospital from the date of accident i.e. 11.11.1997 till his death on 07.12.1997 due to spinal injury. All the family members looked after the deceased victim during this period and they had also undergone pain and agony. No compensation has been awarded regarding the medical expenditure. It is pointed out that in order to assess the quantum of compensation, the learned Motor Accident Claims Tribunal, Rohtak assumed the income of deceased victim as Rs. 1600/- per month. Infact, the minimum wages notified in the District by the Deputy Commissioner was Rs. 80/- per day which comes out to be Rs. 2,400/- per month. In order to assess the quantum of compensation future prospects have not been considered. The deceased was looking after his old parents, therefore, there can be 1/3rd deduction towards personal expenditure. Apart from this while granting the quantum of compensation, the learned Motor Accident Claims Tribunal, Rohtak has applied the multiplier of 17 instead of 18. They were not granted compensation under the conventional heads like expenditure on transportation, special diet and compensation on account of loss of consortium. It is prayed that even the interest awarded by the Tribunal @15% per annum is towards the lower side. Infact, the appellants were entitled to receive the compensation with interest @18% per annum. With these arguments, the learned counsel for the appellants argued that the impugned Award dated 18.12.2000 passed by learned Motor Accident Claims Tribunal, Rohtak may kindly be modified by accepting the appeal

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as the appellants are entitled to enhanced amount of compensation.

10. On the other hand, the claim of appellants is contested by the insurance company taking the stand that the appeal preferred by the appellants is without merits. In the absence of any documentary proof, the income of deceased victim was rightly considered as Rs. 1600/- per month. The deceased victim was unmarried son, therefore, 1/2 income was rightly deducted towards personal expenditure. However, considering the age of the deceased victim as 21 years, multiplier of 18 can be applied in this case. It is further pointed out that the claimants have failed to produce any documentary proof regarding the medical expenditure. The compensation was rightly granted by the learned Motor Accident Claims Tribunal, Rohtak on conventional head and the same does not require any interference. It is argued that the claim of appellants is towards the higher side.

11. I have considered the arguments and have gone through the trial Court file. Om Pati Devi and Roop Basant (since deceased), the parents of the deceased victim filed the present claim petition under Section 166 of Motor Vehicles Act, 1988 on account of sad demise of their son Ranjit Singh who was 21 years old at the time of accident. The present appeal has been preferred only regarding the quantum of compensation awarded by the learned Motor Accident Claims Tribunal, Rohtak. The learned Motor Accident Claims Tribunal, Rohtak considered the income of deceased victim as Rs. 1,600/- per month and his contribution towards the parents was taken as Rs. 840/- per month and annual income was taken as Rs. 10,000/-. The multiplier of 17 was applied and compensation was awarded to the extent of Rs. 1,70,000/- alongwith interest @15% per

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annum from the date of filing of petition till realization of amount.

I have considered the age of the deceased victim namely Ranjit Singh as 21 years. It is alleged that he was doing private job and earning Rs. 3,000/- per month. There is no documentary proof regarding the income of deceased victim. Therefore, considering the year in which the accident took place i.e. 1997, the income of Ranjit Singh has been assessed as Rs. 1600/- per month which is towards the lower side. It is also matter of record that future prospects of the deceased victim have not been considered. Therefore, the monthly income of late Ranjit Singh is assumed as Rs. 2,000/- per month by way of guesswork and by applying the authority cited in **2013(3) CivCC 15 Supreme Court of India**, in case titled “***Rajesh and others Vs Rajbir Singh and others***”, 40% income is enhanced towards future prospects, which comes out to be Rs. 800/- and monthly income is taken as Rs. 2800/- and annual income is taken as Rs. 33,600/-. Admittedly, late Ranjit Singh was unmarried son of the claimants, therefore, 1/2 income is deducted towards personal expenditure and the annual dependency of the parents is taken as Rs. 16,800/-. By applying the authority cited in **2009 ACJ 1298 Supreme Court of India**, in case titled “***Smt. Sarla Verma and others Vs Delhi Transport Corporation and another***”, the multiplier of 18 is appropriate to be applied in this case and with this multiplier, amount of compensation comes out to be Rs. 3,02,400/- which the parents of deceased victim were entitled to receive on account of untimely death of their son in a motor vehicle accident.

12. It is rightly pointed out by the learned counsel for the appellants that no compensation has been awarded regarding the medical

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expenditure. No doubt there is no direct evidence regarding the medical expenditure but it cannot be ignored that the accident took place on 11.11.1997 and Ranjit Singh had died on 07.12.1997. Copy of Postmortem report is Ex.PF. During this period some attendant must be taking care of the injured. He must have been provided special diet and the family must be spending money on transportation. Therefore, considering the duration for which Ranjit Singh remained under treatment, the appellants/claimants are granted Rs. 25,000/- on account of medical expenditure, Rs. 2,000/- for attendant, Rs. 5,000/- for special diet and Rs. 3,000/- for transportation. Thus, the total amount comes out to be Rs. 35,000/- which the appellants were entitled to receive from the respondents No. 1 to 3.

Om Pati Devi and Roop Basant (since deceased) are the parents of late Ranjit Singh. Considering the year in which the accident took place, both the parents are further granted Rs. 50,000/- towards loss of consortium, Rs. 5,000/- towards loss of estate and Rs. 10,000/- for funeral and last rites.

Therefore, the total amount of compensation comes out to be Rs. 4,02,400/- which the appellant No. 1 Om Pati Devi (since appellant No. 2 Roop Basant has expired) is entitled to receive from the respondents No. 1 to 3. As referred above, the learned Motor Accident Claims Tribunal, Rohtak had already granted Rs. 1,70,000/- as compensation which is liable to be adjusted from the aforesaid amount if already deposited and the appellant No. 1 Om Pati Devi is entitled to receive the balance amount of Rs. 2,32,400/- from the respondents who are liable to pay the amount jointly and severally as held by the learned Motor Accident Claims Tribunal, Rohtak. The appellant No. 1 Om Pati Devi is

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entitled to receive the enhanced amount of compensation with interest @7% per annum from the date of filing of present appeal till realization of the amount. Considering the long pendency of present appeal, the appellant No. 1 is further granted Rs. 10,000/- towards litigation expenses.

Resultantly, the findings given by the learned Motor Accident Claims Tribunal, Rohtak while passing impugned Award dated 18.12.2000 are modified regarding quantum of compensation by accepting the present appeal.

The record in original received from the Tribunal be sent back to the concerned quarter.

Pending application(s), if any, also stand disposed off.

18.08.2023

lalit

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes
Whether reportable:	Yes