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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: March 14, 2023

FAO-4145-2007 (O&M)

Smt. Rani Devi and others ...Appellants

versus

Baljeet Singh and others ….Respondents

FAO-3545-2006 (O&M)

The Rajasthan State Roadways Transport Corporation
...Appellant

versus

Smt. Rani Devi and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. H.N.Sahu, Advocate,
For the appellants in FAO-4145-2007 and
For respondents No.1 to 6 in FAO-3545-2006

Mr. Anil Gahlawat, Advocate,
For respondent No.2 in FAO-4145-2007 and
For appellant in FAO-3545-2006.

Mr. Harsh Aggarwal, Advocate,
For respondent No.11-National Insurance Company Limited in FAO-3545-2006.

Mr. Neeraj Khanna, Advocate,
For respondent No.5-Insurance Company in FAO-4145-2007.

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ARUN MONGA, J. (ORAL)

Vide this common order and judgment, above-mentioned two appeals are being disposed of since they arise out of the same award dated 15.04.2006 rendered by learned MACT. For brevity, recitals are taken from FAO-4145-2007.

2. Appellants (in FAO-4145-2007) before this Court are claimants challenging impugned Award dated 15.04.2006 passed by learned Motor Accidents

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Claims Tribunal, Jind (for short 'Tribunal') for enhancement of compensation on account of death of Ajmer in a motor vehicular accident, whereas appellant(in FAO-3545-2006) before this Court is the owner of offending vehicle seeking to set aside aforesaid impugned Award.

3. Succinct facts, as noted by learned Tribunal, are as below:

> "*Briefly, it has been averred in the present claim petition that on 04.09.2003 Ajmer Singh and Dharambir were returning from Gogameri to their village in JeepNo.RJ-31C-0216 and when they reached Bhadra Town Bye-Pass, then the offending vehicle came from front side which was driven by respondent No.1 in a rash and negligent manner an struck against the jeep. Dharambir and Ajmer fell down from the jeep on the mettled road and received multiple grievous injuries. Ajmer died at the spot while Dharambir sustained the multiple and grievous injuries. Dharambir was shifted to the hospital and was treated in hospital at Bhadra, Hisar, PGIMS, Chandigarh etc. The petitioners Rani Devi etc. have claimed a sum of Rs.25,00,000/- as compensation along with the interest @18% per annum.*"

4. Upon notice, respondent No.1 and 2-driver and owner, respectively, of the offending bus denied the averments made in the claim petition and pleaded that petition was not maintainable as the claimants did not have any cause of action. Defence was that respondent No.1 was driving his vehicle at a very slow speed whereas the jeep was being driven rashly and negligently. Deceased Ajmer was not earning Rs.25,000/- per month, as alleged. Deceased Ajmer Singh and Petitioner Dharambir were standing on the pedestal of the Jeep being driven at high speed when it took a sharp turn, due to which petitioner Dharambir and deceased Ajmer fell on the road. The offending vehicle did not hit the said jeep. The jeep driver ran away from the spot along with the jeep leaving behind these two passengers on the road. Thus, dismissal of the claim petition was prayed.

4.1 Respondents No.4 and 5 (Driver and owner of Jeep),*inter alia*, raised objections that there was lack of *locus standi*; no cause of action to institute the claim; claim petition suffered from non-joinder and mis-joinder of necessary

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parties. Negligence was not on the part of respondent No.4. They claimed that vehicle was insured and was driven by respondent No.4, who was having valid and effective driving licence.

4.2 Respondent No.6 (Insurer of Jeep) also contested the petition on the ground that there is no cause of action against jeep No.RE-31C/0216 as the accident took place due to rash and negligent driving of the offending vehicle and that jeep driver was not holding a valid and effective driving licence. All the averments of the claim petition were also denied.

5. No replication was filed. Learned Tribunal framed the following issues:

> "*1. Whether the accident in question has occurred due to rash and negligent driving of bus No. RJ-13P/1856 by the driver Baljeet Singh respondent No.1, causing into the death of Ajmer Singh, as alleged and injuries to Dharambir Petitioner? OPP*
> *2. Whether the petitioners are entitled for compensation, if so to what amount and from whom they are entitled to receive? OPP*
> *3. Whether respondent No.1 was not holding a valid and effective driving licence at the time of alleged accident, as well as respondent No.4 Jai Parkash also not holding a valid driving licence at the alleged time, if so to what effect? OPR*
> *4. Relief."*

6. On appraisal of record/ evidence, learned Tribunal decided issues No.1, 2 & 3 in favour of claimants and against the respondents. Consequently, claimants were held entitled to receive compensation of Rs.4,67,800/-. On its apportionment and mode of payment the learned Tribunal directed that petitioner No.1 was entitled to Rs.1,67,000/- whereas, petitioners No.2 and 3 were entitled to Rs.1,00,000/- each and petitioners No.4 and 5 were entitled to Rs.50,000/- each;the amount of petitioners No.2 and 3 will be deposited in a nationalized bank in an interest bearing scheme till they attain majority whereas 75% of the amount of petitioners No.1, 4 and 5 will be deposited in a nationalized bank in an interest

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bearing scheme for a period of 3 years and remaining 25% amount be paid in cash to the petitioners 1, 4 and 5.

7. I have heard learned counsel for the parties and gone through the record.

8. Shorn of unnecessary details, the submissions in FAO-3545-2006 are that the findings returned by learned Tribunal are against the facts of the case and are based on conjectures and surmises; and are contrary to law and evidence on record.

9. Having perused the impugned award, my considered opinion is that the submissions made before learned Tribunal were duly dealt and repelled by recording sound and sufficient reasons consistent with record and the applicable law. I am inclined to agree with the same. There seems no substance in the submissions of learned counsel for the appellant in FAO-3545-2006 that the impugned Award is based on conjectures and surmises.

10. No new arguments have been raised by learned counsel for the appellant in FAO-3545-2006 other than reiteration of the stand taken before learned Tribunal.

11. To my mind, award under challenge qua the factum of accident and involvement of offending vehicle has been rendered after due and correct appreciation of record, including the evidence adduced by the parties. FAO-3545 of 2006 is liable to be dismissed.

12. In FAO-4145-2007, learned counsel appearing on behalf of claimants herein submits that compensation awarded by the Tribunal on account of loss of consortium, and funeral expenses/last rites need to be enhanced. He further submits that multiplier of 17 ought to have been applied instead of 16 keeping in view the age of the deceased being 26 years. He submits that income of deceased was

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wrongly assessed at Rs. 3,000/- only. Whereas, deceased used to earn Rs.25,000/- per month from agriculture as well as poultry farming. In support of his averments, he relies on the Apex Court judgment rendered in **National Insurance Co. Ltd. v. Pranay Sethi,** reported in **(2017) 16 SCC 680**.

13. PW-2, Rani Devi, deposed that her husband (Ajmer Singh) used to earn Rs. 25,000/- per month from agriculture as well as poultry farm. Petitioners No. 2-3 minor children, petitioners No. 4-5 parents and petitioner No. 6 grand father of the deceased were dependent on his income. She being the wife of the deceased was also obviously dependent on his income. His age was 26 years and he was in good health. To meet the minimum needs of the family of 7 members (including himself), naturally he would be doing every possible thing, by adopting all out means (including working overtime) to increase his earning. In these circumstances, I deem it appropriate to assess the monthly income of the deceased at Rs. 5,000/- instead of Rs. 3,000/- as assessed by the learned Tribunal. Award of the Tribunal is, *inter alia,* premised on following reasoning:-

> *24. "In case of Rani Devi etc. Vs. Baljeet etc. admittedly the deceased Ajmer was not having his land but he was supporting his father as well as it is claimed that he was having a poultry farm, which is not roved. Even if, he is skilled labourer helping his father in agriculture then he must be earning Rs.3000 per month. Lie any other human beings he must be contributing two units for himself and 8 unit towards his family members i.e. petitioners No.1 to 5. However, petitioner No.6 is not entitled to any compensation as grand father is not treated as a dependent upon his grand son particularly, when his own son is alive. He was a young man of 26 years. Thus, I award multiplier of 16. The total amount comes to Rs.4, 60,800/-. Petitioner No.1 is entitled to Rs.5000/- towards consortium as well as Rs.2000 for cremation. The total amount of compensation comes to Rs.4, 67,800/- in case Rani Devi etc. Vs. Baljeet etc.*
>
> *25. In this case, the accident has occurred due to rash and negligent driving of offending vehicle and naturally, the respondents No.4 to 6 are not liable to make the payment of compensation. The amount of compensation is to be recovered from the respondents No.1 and 2. Hence, both these issues are decided in favour of the petitioners and against the respondents."*

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14. Applying the principles in the case of **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, reported in**2009 (3) The Punjab Law Reporter 22**, **National Insurance Co. Ltd. v. Pranay Sethi,** reported in **(2017) 16 SCC 680** read with **Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others**, reported in**2019 (3) SCC (Cri) 153**, amount of compensation is recalculated as below:

Deceased/victim	Ajmer
Date of accident	04.09.2003
Age	26 years
Monthly income of the deceased	Rs. 5,000/-
Future prospects @ 40%	Rs.2,000/-
Total Income	Rs. 7,000/- p.m.
Multiplier@	17
Total	7,000x12x17=14,28,000/-
Deduction in dependency 1/5th	Rs.14,28,000- 2,85,600 =11,42,400/-
Consortium (44,000x5)	Rs.2,20,000/-
Loss of Estate	Rs.16,500/-
Funeral expenses	Rs.16,500/-
Total	Rs.13,95,400/-
Compensation awarded by the Tribunal	Rs.4,67,800/-
Enhanced amount of compensation	Rs.9,27,600/-

15. Accordingly, the impugned award is modified in terms of the above computations. Revised compensation shall be payable to the claimants along with interest as already imposed by the learned Tribunal, from the date of filing of the claim petition till the actual date of payment. The same shall be payable to the claimants within a period of 2 months of their approaching the insurance company along with web print of the instant order, failing which additional penal interest of 3% p.a. shall be paid from the date of filing of the claim petition.

16. The accident in question took place on 04.09.2003 resulting into the death of victim Ajmer Singh. By now his minor children have become major. In

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the premise, revised compensation amount be disbursed to the claimants in terms of the apportionment as under after adjusting the amount paid already, if any :-

1. Rani Devi widow- Rs. 8,95,400/-
2. Anjali Devi daughter Rs. 1,50,000/-
3. Ajay Kumar son Rs. 1,50,000/-
4. Ram Rati mother Rs. 1,00,000/-
5. Jai Bhagwan father Rs. 1,00,000/-

17. As an upshot, **FAO-3545-2006** stands dismissed and **FAO-4145-2007** stands partly allowed, in the above terms.

18. Pending application(s), if any, shall also stand disposed of.

19. A photocopy of this order be placed on the connected case file.

(ARUN MONGA)
JUDGE

March 14, 2023
Shalini/vandana

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

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