IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3590 of 2015
DATE OF DECISION :- April 19, 2023

Baljit Kaur and others …Appellants

Versus

Jai Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Jaideep Verma, Advocate for the appellants

Mr. Vinod Gupta, Advocate for respondent-Insurance Company.

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Briefly stated the facts of the case are that on account of death of Jagmail Singh in a motor vehicular accident which took place on 3.5.2008 at about 5.30 P.M. in the area of near Sabzi Mandi Chowk, Verdhman within jurisdiction of Police Station, Division No. 7, Ludhiana, statedly on account of rash and negligent driving of truck bearing registration No. PB-10H-9565 by respondent No. 1 Jai Singh, legal representatives of such deceased namely his wife Smt. Baljit Kaur, daughter Gurinder Kaur, son Mandeep Singh, minor daughter Gurpreet Kaur, all residents of Village Sangowal, Tehsil and District Ludhiana had brought a claim petition under Section 166 of the Motor Vehicle Act, 1988 (hereinafter referred to as the 'Act') against Jai Singh, driver, M/s Aradhna Delinks & Brewrage Pvt. Ltd. Jassian Road, near Jalandhar Bye Pass, Ludhiana, owner and The New India Insurance Company Limited, Chandigarh, insurer of the truck. In that claim petition they had impleaded Surjit Kaur, mother and Bhajan Singh, father of deceased as claimants No. 5 and 6 respectively.

After contest, the claim petition was accepted by Motor Accident Claims Tribunal, Ludhiana vide Award dated 16.12.2013 and compensation of Rs.7,10,000/- along with interest at the rate of 12% was granted to the claimants payable by all the three respondents jointly and severally. However, the claimants found compensation so awarded to be on the lower side and for the said reason they have approached this Court by way of filing an appeal, notice of which was given to respondent No. 3 Insurance Company only.

I have heard learned counsel for the appellants and learned counsel for respondent No. 3 besides going through the record.

The Tribunal considering the facts and circumstances of the case as well as the evidence brought on record especially the eye witness account provided by PW2 Nirmal Singh, who had categorically stated that the accident had taken place on account of rash and negligent driving of the offending truck by respondent No. 1 Jai Singh, as well as F.I.R Ex. CW1/1 having been registered against respondent No. 1 with regard to the accident on the basis of statement made by Bhajan Singh and further Jai Singh had not stepped into the witness box to rebut the evidence led by the claimants, had returned a clear finding that respondent No. 1 Jai Singh was the author of the accident by his rash and negligent driving of the offending truck resulting in causing injuries to Jagmail Singh to which he had succumbed. In that way, driver, owner and the Insurance Company of the offending truck were found liable to pay compensation to the claimants and their liability to pay compensation was found to be joint and several. With regard to amount of compensation calculated the Tribunal had taken the age of the deceased to be 41 years and his monthly income to be Rs.5,000/-, which under the circumstances can certainly be not termed to be on lower side. However, the Tribunal had not made any addition towards future prospects.

In terms of judgment ***'National Insurance Company Limited Versus Pranay Sethi and Others 2017 (4) R.C.R. (Civil) 1009'*** when the deceased was between the age group of 40-50 years an addition of 25% is to be made towards future prospects. Doing that the amount comes out to Rs.1250/-. In that way the total monthly income of the deceased is to be taken as 5000 + 1250 = Rs.6250/-. Making deduction of 1/4th of the amount towards personal and living expenses of deceased the dependency of the claimants comes out to Rs.4687.50/- per month. In that way, the annual dependency of claimants is worked out to 4687 x 12 =Rs.56,250/-. The Tribunal has used multiplier of 15. In terms of judgment ***"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(3)RCR Civil 77"*** when the deceased was in the age group of 41-45 years multiplier of 14 should be applied. Doing that the total dependency of claimants comes out to Rs.7,87,500/-. As per the latest judgment ***'Shri Ram General Insurance Co. Ltd. versus Bhagat Singh Rawat & Ors. Civil Appeal Nos. 2410-2412/2023 [@ SLP [C] Nos. 11669-11671/2020]'*** the claimants are to be granted a sum of Rs.40,000/- in total under the Head loss of consortium. The claimants are entitled to get Rs.15,000/- as funeral expenses and Rs.15,000/- for loss of Estate. In that way the total compensation is worked out to Rs.8,57,500/-. The Tribunal has awarded a sum of Rs.7,10,000/-. In that way the claimants are entitled to get additional compensation of Rs.1,47,500/- (8,57,500 – 7,10,000). The manner of apportionment of compensation as well as mode of payment shall remain the same as directed by the Tribunal. The claimants would be entitled to get interest at the rate of 7.5% on the enhanced amount of compensation from the date of filing of claim petition till actual realization with costs throughout.

The appeal is allowed partly.

(H.S. MADAAN)
JUDGE

April 19, 2023
p.singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No