



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) **FAO-2349-2002 (O&M)**

Pritpal Singh and others
...Appellants

VERSUS

Nachhattar Singh and others
...Respondents

(ii) **FAO-2670-2002 (O&M)**

Pepsu Roadways Transport Corporation and others
...Appellants

VERSUS

Prit Pal Singh and others
...Respondents

Date of Decision: August 13, 2024

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ajay Pal Singh, Advocate
 for the appellants (in FAO-2349-2002) and
 for respondents No.1 to 3 (in FAO-2670-2002).

 Mr.Vishal Moudgil, Advocate
 for the appellants (in FAO-2670-2002) and
 for respondents No.1 to 3 (in FAO-2349-2002).

 Mr.Abhishek Goyal, Advocate for
 Mr.Pardeep Goyal, Advocate
 for respondent No.5.

ARCHANA PURI, J.

These are rival appeals filed, at the instance of appellants-

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claimants as well as Pepsu Roadways Transport Corporation, its General Manager and Nachhatrar Singh, driver of the offending bus, to assail the Award dated 09.11.2001 passed by learned Motor Accident Claims Tribunal.

FAO-2349-2002 has been filed by the appellants-claimants, thereby, seeking enhancement of the compensation, awarded by learned Tribunal, on account of death of Charanjit Kaur, in a motor vehicular accident, which took place on 27.10.1998.

FAO-2670-2002 has been filed by appellants-Pepsu Roadways Transport Corporation, its General Manager and Nachhattar Singh, driver of the offending bus, thereby, questioning the imputation of rashness and negligence, on the part of Nachhattar Singh, while driving offending bus, bearing registration No.PB-11F-9676, which allegedly caused the accident in question.

For the convenience of discussion, the parties are referred to as making appearance before learned Tribunal.

The facts germane, to be noticed, are as follows:-

That, on 27.10.1998, at about 5.00 p.m., Charanjit Kaur (since deceased) was coming with Surinder Kumar, her brother-in-law, after office hours, while on scooter bearing registration No.CH-01M-9865, as they were working in the same office. Surinder Kumar was driving the scooter and deceased was pillion rider. They were proceeding from Sector-45, Barrier to Barrier of Sector 45-46. One truck, bearing registration No.HR-013-7043 was parked on the left side of the road. When, Surinder Kumar was crossing the truck, in the meantime, one bus bearing registration No.PB-11F-9676,

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came there, being driven by its driver, namely, Nachhattar Singh, in rash and negligent manner and at a high speed and struck with the scooter, as a result whereof, Charanjit Kaur fell down and was crushed under the bus. Relating to the said accident, FIR No.210 dated 27.10.1998, was got registered under Sections 279 and 304-A IPC, Police Station South Chandigarh.

It is the categoric claim that the accident had taken place, due to rash and negligent driving of bus bearing registration No.PB-11F-9676, which was also driven at high speed and as a result of this accident, Charanjit Kaur died instantaneously.

In pursuance of the notice issued, respondents No.1 to 3 made appearance and filed reply, whereby, they had taken the plea that the accident had occurred, due to rash and negligent driving of Surinder Kumar, who was driving the scooter bearing registration No.CH-01M-9865. In fact, Surinder Kumar had actually struck his scooter against the standing truck bearing registration No.HR-013-7043, as a result thereof, the lady, who was pillion rider, had fallen down on the ground and came in contact with the rear wheels of the bus. In fact, they took the plea that there was no fault, on the part of the driver of the bus. The occurrence was witnessed by police officials, namely, S.Karamjit Singh No.842, Bathinda, Sh.Sant Ram No.1227, Bathinda and Sh.Hoshiar Singh No.1661, Bathinda, as they were escorting the bus. They made an attempt to apprise Sub-Inspector Kuldeep Singh and Inspector Nanha Ram, who came to the spot, but however, they were not ready to listen to the police constables. Rather, their behaviour was quite harsh. The Investigating Officer, tampered with the scene of occurrence and managed by changing the position of the scooter. Nachattar

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Singh-respondent No.1 was not at fault, as noticed by S.Mohan Singh, Driver No.K-161 of Pepsu Roadways Transport Corporation, who was coming behind the bus in question, while driving the another bus. The Investigating Officer got the photographs, according to his choice, after tampering with the scene of occurrence. As such, a prayer was made for dismissal of the claim petition.

Surinder Kumar, who was impleaded as respondent No.4, admitted about taking place of the accident and also admitted about Charanjit Kaur deceased to be pillion rider on his scooter, on the date of accident and further, he deposed about the manner of taking place of the accident, which is in consonance with the version, put forth, by the claimants.

The New India Assurance Company, who is the insurer of the ill-fated scooter, had taken the plea that claimants are not entitled to any compensation. The driver of the scooter was not holding a valid driving licence, at the time of accident and the scooter was not insured with it.

Rejoinder was filed and issues were framed.

However, Surinder Kumar, who was impleaded as respondent No.4 was proceeded against ex-parte.

To substantiate their claim, the claimants examined PW-1 Harminder Singh, Computer, Punjab Health Department, office of Director Health and Family Welfare Punjab, PW-2 Paramjit Singh, PW-4 Paramjit, wife of Balkar Singh and claimant No.1-Pritpal Singh, himself stepped into witness box as PW-3. Even, various documents were also tendered in evidence.



To rebut the claim of the claimants, the respondents examined RW-1 Jagjit Singh, RW-2 Havaladar Balbir Singh, RW-3 Karamjit Singh, Head Constable, RW-4 Constable Hoshiar Singh, RW-6 Surinder Kumar, RW-7 Harnek Sing, RW-8 Naveen Verma, Ahlmad of the Court, RW-9 Constable Manjit Singh and Nachhattar Singh himself stepped into witness box as RW-5. Various documents were also tendered in evidence.

On appraisal of the evidence aforesaid and considering threadbare, the statements made by the witnesses of the respondents and also considering the eye witness account by Surinder Kumar as well as PW-2 Paramjit Singh, learned Tribunal had concluded about the accident, to have taken place, due to rash and negligent driving of bus bearing registration No.PB-11F-9676 by Nachhattar Singh and that same resulted into instantaneous death of Charanjit Kaur. After conclusion of the same, the compensation was worked upon to the extent of Rs.5,69,808/-, on account of death of Charanjit Kaur.

Being not satisfied with the extent of compensation awarded, the appellants-claimants have filed the appeal i.e. FAO-2349-2002. On the other hand, PRTC, its General Manager and Nachhattar Singh, who were impleaded as respondents No.1 to 3 before learned Tribunal, had also filed counter appeal i.e. FAO-2670-2002, to assail the rashness and negligence, imputed upon Nachhattar Singh, while driving the offending bus and also on the quantum of compensation.

Learned counsel for the parties heard.

It is categoric claim of the appellants-claimants that on the ill-fated day i.e. 27.10.1998, Charanjit Kaur together with Surinder Kumar, her

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brother-in-law, after office hours, at about 5.15 p.m., while on scooter bearing registration No.CH-01M-9865, were going from Sector-45, Barrier to Barrier of Sector 45-46. It was also asserted that one truck, bearing registration No.HR-013-7043, was parked on the left side of the road. When, Surinder Kumar was crossing the truck, in the meantime, one bus came from behind and struck the scooter from behind, as a result whereof, Charanjit Kaur fell down and was crushed under the rear wheel of the bus in question.

As observed in the earlier portion of the judgment, it was categorical claim that the accident had taken place, on account of rash and negligent driving of the bus bearing registration No.PB-11F-9676, which was also proceeding at a high speed. Though, the accident, as such, has not been denied by the respondents, but however, they asserted the rashness and negligence, on the part of Surinder Kumar.

To substantiate respective assertions about manner of taking place of the accident, the appellants-claimants have examined PW-2 Paramjit Singh, who deposed in consonance with the factum of the accident, as pleaded by the appellants-claimants. He has narrated in detail, about the manner of taking place of the accident. He has categorically deposed that the offending bus was coming, at a high speed and that the driver did not blow any horn, nor did he apply brakes. The bus was driven, rashly and negligently by Nachhattar Singh and it struck against the scooter, which fell down. Furthermore, he has also deposed about Surinder Kumar to have fallen on the left side of the road, whereas, lady sitting on the scooter, fell on the right side of the road, in front of the bus and she was Charanjit Kaur and

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she was run over by the bus and died at the spot. Furthermore, he deposed about knowing Charanjit Kaur, as she was working in his office. He proved FIR Ex.P2, which was got lodged by Surinder Kumar, driver of the scooter. Further, he also deposed about having apprised husband of Charanjit Kaur.

Even, Surinder Kumar has been examined by the insurance company as RW-6. This witness, who was the most crucial witness, has also categorically deposed about the manner of taking place of the accident and he has categorically stated that he was driving the ill-fated scooter and Charanjit Kaur was pillion rider on the same. Even though, it is submitted that PW-2 Paramjit Singh, is a procured witness, but however, no evidence, to substantiate this assertion, has been led by the respondents. Pritpal Singh, who is the husband of Charanjit Kaur has also stepped into witness box as PW-3.

To counter the aforesaid eye witness account given by PW-2 Paramjit Singh, RW-1 Jagjit Singh, OSI Assistant, S.P. Office, Bathinda, had proved the order, whereby, Constable Karamjit Singh No.42, Hoshiar Singh No.1661 and Constable Satnam Singh No.2227, were put on bus duty at night time.

RW-2 Hawaldar Balbir Singh and RW-3 HC Karamjit Singh as well as RW-4 Constable Hoshiar Singh, have categorically deposed about having witnessed the accident. They have deposed that there was no fault, on the part of driver of the bus in question. They were subjected to lengthy cross-examination, which has been appraised in correct perspective by learned Tribunal. The missing link is coming forth, with regard to the scooter having struck into the parked truck, from the front side, which

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version is belied, from the cross-examination of the aforesaid witnesses only. Suffice to make to reference to statement of RW-5 Nachhattar Singh, who was driver of the bus in question, at the relevant time. He has categorically deposed about a criminal case having registered against him i.e. FIR No.210 dated 27.10.1998 under Sections 279 and 304-A IPC, which is pending in the Court. Even though, he had stated that he has been falsely implicated and further, has also deposed that he had filed an application for his false implication, but however, the same, as such, has not been duly proved. He also further stated that he cannot produce the copies of those applications, which significantly belies the version of Nachhattar Singh, having disputed his rashness and negligence, by way of filing of the applications.

RW-8 Naveen Verma, Ahlmad of the Court, has also brought summoned file of criminal case against Nachhattar Singh and he had categorically stated about the photographs of the site of accident to be there and further admitted a suggestion to be correct that in the photographs of the scooter, it is clear that the back portion of the scooter was damaged and there was no damage, on the front side of the scooter, which also belies the version given by three police officials, who deposed in support of the respondents. Not only this, even RW-9 Constable Manjit Singh, who had clicked photographs RW9/1 to RW9/9, had stated that the scooter was damaged from the backside, which strengthens the version of the appellants-claimants, about the manner of the accident.

On appraisal of the evidence aforesaid, learned Tribunal had rightly concluded about the accident, to have taken place, due to rash and

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negligent driving of the offending bus, driven by respondent No.1- Nachhattar Singh and the same resulted into death of Charanjit Kaur. As such, findings on the said issue, are hereby affirmed.

In this backdrop, now let us consider the claim for enhancement of the compensation.

It is categoric claim of the appellants-claimants that deceased Charanjit Kaur was about 41 years old, at the time of accident and was working as Clerk, in the office of Director Health and Family Welfare Punjab. PW-1 Harminster Singh, Computer, Punjab Health Department, office of Director Health and Family Welfare Punjab, who on the basis of the record, has deposed about Charanjit Kaur to be working as Clerk, in the office and further also deposed that her date of birth was 27.09.1958. He proved the salary certificate, which is Ex.P1. Taking to consideration the date of birth, coming forth, from the requisite record, the deceased is established to be about 40 years old, at the relevant time.

Also, it stands established that deceased was working as Clerk and from the salary certificate Ex.P1, it is evident that deceased was drawing salary to the extent of Rs.7165/- and net salary was Rs.5935/-.

Learned Tribunal, while considering the earnings to be Rs.5935/-, had deducted 1/3rd, as 'personal expenses' and the dependency was worked upon as Rs.3957/-, annual whereof, comes to be Rs.47,484/-. While applying the multiplier of '12', the compensation was worked upon as Rs.5,69,808/-.

However, the aforesaid work on of the compensation aforesaid, do call for re-determination, as per the settled prevalent law.



As per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, except deduction on account of income tax, no deduction ought to be made from the salary. As per salary certificate Ex.P1, the income of the deceased was Rs.7165/- per month, annual whereof, comes to be Rs.85,980/-. Taking this extent of annual earnings, it is pertinent to mention that as per income tax slab, existing at the relevant time, there was basic exemption upto Rs.2,50,000/-. Thus, the extent of income of the deceased was not falling within the taxable limits, at the relevant time. Given the same, the earnings are taken as Rs.7165/- p.m.

To the said amount, considering the age of the deceased, as per *Pranay Sethi case (supra)*, addition to the extent of 50%, ought to be made, on the count of 'future prospects', which comes to be Rs.3582/-. As such, the monthly earnings comes to be Rs.10,747/-.

Considering the number of dependents to be three, the deduction, on the count of 'personal expenses' as per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, ought to be to the extent of 1/3rd. After making this deduction, the loss of dependency, comes to be Rs.10747-3582=Rs.7165/- per month, annual whereof, comes to be Rs.85,980/-.

Considering the age of the deceased, the appropriate and suitable multiplier, as per *Sarla Verma's case (supra)* to be applied is '15', and thus, by applying the same, the loss of dependency, works out to be Rs.85980x15=Rs.12,89,700/-.

Besides the same, taking into consideration, the claimants to be husband and two children of deceased Charanjit Kaur, all of them are



entitled to compensation, on the count of ‘spousal’, ‘parental’ consortium as held in *Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130*. As held in *Pranay Sethi’s case (supra)*, the compensation payable, at present, on the count of ‘loss of consortium is to the extent of Rs.48,400/- i.e. $Rs.48,400 \times 3 = Rs.1,45,200/-$. Likewise, on the counts of ‘loss of estate’ and ‘funeral expenses’, the compensation payable, comes to be **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to claimants, on account of death of Charanjit Kaur, is re-computed, as herein given:-

Loss of dependency	:	Rs.12,89,700/-
Loss of consortium	:	Rs.1,45,200/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.14,71,200/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.14,71,200-5,69,808=Rs.9,01,392/-**. On the enhanced amount of the compensation, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the appeal, till realization of the enhanced amount of compensation.

The compensation amount already awarded shall be apportioned as ordered by learned Tribunal. However, out of the enhanced amount, as now awarded, appellant-claimant No.1-Pritpal Singh is held entitled to Rs.5,01,392/- and appellants-claimants No.2 and 3 (children) are held entitled to Rs.2,00,000/- each.



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Accordingly, the impugned Award dated 09.11.2011 stands modified, to the extent, as indicated aforesaid. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

In view of the aforesaid observations, FAO-2349-2002 stands allowed, whereas, FAO-2670-2002 stands dismissed.

August 13, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No