



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**Reserved on : 29.01.2025
Pronounced on : 07.03.2025**

1. FAO-317-1995

Roshan Lal and others Appellants

versus

Amar Nath and others Respondents

2. FAO-318-1995

Roshan Lal and others Appellants

versus

Amar Nath and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

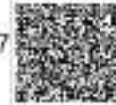
Present: Mr. Gurcharan Dass, Advocate
for the appellants.

Mr. Aseem Aggarwal, Advocate
for respondent No.3 (through V.C.)

PANKAJ JAIN, J. (Oral)

1. These two appeals related to same accident, wherein the claimants-appellants lost their father Vishwa Mittar and their mother Santosh Rani.

2. Two different claim petitions were filed seeking compensation on account of death of Vishwa Mittar and that of Santosh Rani, who died in a motor vehicular accident on 25.03.1992. The two claim petitions were consolidated alongwith another claim petition which is not subject matter of the present bunch. The issue raised by the claimants relates to enhancement of compensation. While assessing compensation on account of death of



Vishwa Mittar, Tribunal held that it has come on record that Vishwa Mittar used to earn his livelihood by driving auto rickshaw. Against the income of Rs.4,000/- claimed by the claimants, Tribunal assessed his income to be around Rs.1200/- per month by guess work.

3. Learned counsel representing the appellants-claimants has seriously disputed the finding on issue No.1 recorded by the Tribunal. He submits that despite having been proved on record that the truck i.e. offending vehicle was being driven on wrong side of the road, yet the Tribunal held the deceased Vishwa Mittar also responsible for the accident to the extent of 33%.

4. From the perusal of the award, it is evident that truck was on wrong side. The same has been so testified by PW-4 Malkiat Singh who is an eye witness. His testimony is fully corroborated by the site plan Ex.P-4. It has also come on record that driver of the offending truck was challaned for offences punishable under Sections 279, 377 and 304-A of IPC. FIR has been proved on record as Ex.P-3. Police report has been proved on record as Ex.P-2. In these circumstances, Tribunal erred in holding Vishwa Mittar negligent to the extent of 1/3 merely for the reason that the width of the road on the spot was more than 30 feet. Had the truck not been on the wrong side, accident would have been avoided. Thus, finding on issue No.1 needs to be reversed. It is held that respondent No.1 was responsible for having caused accident on account of rash and negligent driving which led to death of Vishwa Mittar and Sanoth Rani.

5. In the considered opinion of this Court, once the Tribunal held that deceased Vishwa Mittar was plying auto rickshaw to transport school children to the convent school, Ludhiana and PW-5 Kuldeep Thapar testified



that he was charging Rs.300/, Tribunal ought to have assessed his income as Rs.1,500/- per month for transporting at least 05 children. Rest of the time also, he is not expected to be idle. Thus, the Tribunal ought to have assessed income of deceased Vishwa Mittar as Rs.2,500/- per month. Deduction of 1/4th needs to be applied. Keeping in view his age, future prospects of 30% need to be awarded. Multiplier of 15 has been rightly applied. Nothing has been paid under the heads of loss of estate and future expenses. Rs.18,000/- is awarded under each head. For loss of consortium, each of the claimants is held entitled for Rs.40,000/- each. Rate of interest is modified to 9% per annum.

6. Deceased Santosh Rani is a house wife. Being a homemaker, her income is notionally assessed @ Rs.1,000/- per month. Deduction of 1/4 needs to be applied. Future prospects of 30% need to be awarded. Multiplier of 15 has been rightly awarded. For loss of consortium, each of the claimants is entitled for Rs.40,000/-. For loss of estate and funeral expenses, Rs.18,000/- is awarded under each head. Issue of contributory negligence already stands decided hereinabove.

7. With the aforesaid modification, both the appeals are disposed off.

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

(PANKAJ JAIN)
JUDGE

07.03.2025

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Whether speaking/reasoned :

Yes

Whether Reportable :

No