



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

(i) FAO-2719-1999 (O&M)

Rajasthan Roadways Lohagarh

...Appellant

VERSUS

Smt.Rama Bhayana and others

...Respondents

(iii) XOBJC-105-CII-2019

Rajasthan Roadways Lohagarh

...Appellant

VERSUS

Rama Bhayana and others

...Respondents

Date of Decision: March 26, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.S.S.Behl, Advocate,
 for the appellant.

 Mr.A.P.S.Sandhu, Advocate with
 Mr.Ashish Kaushik, Advocate
 for respondents No.1 to 3/cross-objectors.

ARCHANA PURI, J.

Rajasthan Roadways Lohagarh-appellant-owner of the
offending bus bearing registration No.RJ-05P-0162, has filed the present
appeal to assail the Award dated 26.08.1998 passed by learned Motor
Accident Claims Tribunal, whereby, compensation was granted, on account

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of death of Mahesh Chand @ Mahesh Chander Bhayana, in a motor vehicular accident, which took place on 09.02.1996.

Even, cross-objections have been filed by the respondents-claimants to seek enhancement of the compensation.

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

It is the pleaded case of the claimants that on 09.02.1996, in the morning, on Delhi-Mathura Road at Rajiv Chowk near old Faridabad bus stand, at about 8.30 a.m., Mahesh Chand was riding on his scooter. He had stopped at red light signal at Rajiv Chowk. In the meantime, a bus bearing registration No.RJ-05P-0162, which was driven by respondent No.1-Man Singh, in a rash and negligent manner and at a high speed and it struck the scooter of Mahesh Chand from behind and he fell, as a result whereof, he sustained injuries, which proved fatal.

FIR No.131 dated 10.02.1996 under Sections 279 and 304-A IPC was registered.

In pursuance of the notice issued, respondent No.1-Man Singh, who was impleaded in the capacity of being driver of the offending vehicle, did not make appearance and was proceeded against ex-parte. However, General Manager of Rajasthan Roadways Lohagarh, who was impleaded as respondent No.2, in the capacity of being owner of offending bus, had made appearance and filed reply, wherein, respondent No.2 challenged the locus standi, cause of action of the claimants to file the present petition. However, on merits, it was asserted that there is no nexus or connection with the alleged accident, of the bus bearing registration No.RJ-05P-0162. The FIR

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is false and fabricated. However, it was admitted that the offending bus is owned by respondent No.2 and respondent No.1-Man Singh is the driver of the same. All other averments, with regard to the age of the deceased as well as vocation followed by him and the extent of his earnings were denied.

Various issues were framed and thereupon, evidence was adduced by both the parties. On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident to have taken place, due to rash and negligent driving of the bus bearing registration No.RJ-05P-0162, driven by respondent No.1-Man Singh and the same resulted into injuries on the person of Mahesh Chand @ Mahesh Chander Bhayana, which proved fatal.

While taking into consideration the deceased to be earlier working as Production Manager with M/s Super Parts and salary certificate so proved, the earnings of the deceased was taken as Rs.7242/- per month. 1/3rd was deducted, on the count of 'personal expenses' and the loss of dependency was worked upon as Rs.4828/-, annual whereof, comes to be Rs.57,936/-. Considering the age of the deceased to be 46 years, multiplier of '12' was applied and the compensation was worked upon as Rs.6,95,232/-. Besides the aforesaid, an amount of Rs.10,000/- was granted, on the counts of 'funeral expenses/transportation/loss of estate'. Thus, in total, the compensation to the extent of Rs.7,05,232/- was granted and the liability of the respondents were held to be joint and several.

Feeling aggrieved, respondent No.2, in the capacity of being owner of the offending bus in question, has filed the present appeal. Even though, the manner of taking place of the accident, as concluded by learned

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Tribunal, has been disputed, but however, during the course of arguments, learned counsel for the appellant has made submission that he confine his prayer for reduction of the compensation.

But anyways, it is pertinent to mention that various witnesses have been examined by the respondents-claimants, with regard to manner of taking place of the accident. PW-1 Jyoti Swaroop, is the complainant, at whose instance, FIR was got registered. He has deposed about having witnessed the accident and he has categorically deposed about the injuries sustained by Mahesh Chand in the accident in question. Furthermore, he has categorically deposed about Mahesh Chand to have fallen down along with his scooter, after striking of the bus, on the road, where several persons had gathered. Also, he deposed that name of the bus driver was Man Singh. He categorically deposed that the accident had occurred due to negligence of respondent No.1, who was driving the offending bus, rashly and negligently and at a high speed. He also further categorically deposed that name of the driver was written on the badge of the driver.

In this context, it is pertinent to mention that though, in the FIR, which was got lodged promptly, there is no mention made about the number of bus or the name of the driver, but however, PW-1 has categorically deposed about the taking place of the accident and about the involvement of the respondent-Man Singh. The FIR was also got proved by the said witness.

From the material coming on record, it does not stand established that what was the status of the FIR got lodged, but however, suffice to consider the testimony of PW-3 Inder Sain, Asstt. Ahlmad, who



has deposed about the complaint having filed, vis-a-vis, the accident in question and three witnesses, Ish Kumar, Harvinder and Jyoti Swaroop, having been examined and copies of their statements are Ex.P6 to Ex.P8.

In the light of the aforesaid evidence, it is further significant to note that Man Singh, who in the capacity of being driver, was the best person to depose about the manner of taking place the accident, as such, has not joined the proceedings. He was proceeded against ex-parte and he also not been summoned as a witness by contesting owner. Looking at this conduct also, adverse inference ought to be drawn against the driver of the offending vehicle.

Considering the evidence in entirety, which has been dealt in detail by learned Tribunal, it stands amply established that the accident was caused, due to rash and negligent driving of bus bearing registration No.RJ-05P-0162, driven by Man Singh, at the relevant time and the same resulted into death of Mahesh Chand.

Proceeding further, it is pertinent to mention that deceased is claimed to be working as Engineer and his earnings were Rs.10,000/- per month. Earlier, he was employed as Engineer with M/s Super Parts and thereafter, on the date of accident, he was self-employed as Consultant Engineer. PW-2 Ramesh Lal Karan, Senior Timekeeper of M/s Super Parts has been examined as PW-2. He has deposed about the employment of the deceased in the concern and also further proved the copy of the register, relating to the salary of the employees. The last drawn salary of Mahesh Chand was Rs.7240/-. He also deposed about entitlement of deceased to a sum of Rs.3000/- as bonus. Copy of the register is Ex.P1, salary certificate

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is Ex.P2 and the monthly salary slip is Ex.P3.

Learned Tribunal, considering the last salary drawn, while he was in service, has taken the earnings of the deceased as Rs.7240/- and worked upon the compensation. However, learned counsel for the appellant assiduously submitted that the extent of earnings have been taken on higher side. However, the aforesaid submission is bereft of merits.

It is pertinent to mention that from the testimony of PW-4 Rama Bhayana, it is evident that deceased was B.E. Honors from Punjab Engineering College, Chandigarh and he was gold medalist. The certificate from the Engineering College, relating to the deceased is PW4/1. The certificate of Panjab University is Ex.PW4/2.

From the testimony of PW-2 Ramesh Lal Karan and testimony of PW-4 widow of the deceased, it is evident that deceased was earlier employed as Production Manager in M/s Super Parts. It is the further the version that deceased had resigned from the said job in October, 1995 and started his own business of consultancy. Even if, it is taken into consideration that the deceased was no longer employee of M/s Super Parts, at the time accident, but however, this in itself, does not establish that he was not capable of earning. In fact, the person takes chance of leaving the job and indulging into consultancy business, only if he is capable of doing so. Considering the same, it cannot be said that deceased was not in a position, even to earn the minimum amount, as per his last salary drawn.

Considering the same, the earnings of the deceased, as such, can be considered as Rs.7200/- per month. Taking it to be so, the compensation worked upon by learned Tribunal, as per the prevalent law, do call for re-



determination.

Considering the earnings of the deceased as Rs.7200/-, the annual thereof, comes to be Rs.86,400/-. As per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, for the purpose of 'work on' of the compensation, actual salary ought to be taken minus tax component. As per the tax slab, prevalent in the year 1995-1996, the income upto Rs.40,000/- was exempted from tax. However, from the income bracket of Rs.40,000-60,000/-, income tax payable was 20%, which is to the extent of Rs.4,000/-. Furthermore, for the income bracket of Rs.60,000-1,20,000/-, the tax payable was 30%. After deduction of Rs.60,000/-, the residue taxable amount works out to be Rs.26,400/- and therefore, working upon the tax on this amount @ 30%, it comes to be Rs.7920/-. Thus, the total tax payable, comes to be **Rs.11,920/-**. After making deduction of the aforesaid extent of income tax amount, the residue annual income, comes out to be Rs.8,64,000-11,920=**Rs.74,480/-**.

Considering the age of the deceased to be 46 years, addition of 25% ought to be made, on the count of 'future prospects', which comes to be Rs.18,620/-. After making such addition, the annual earnings of the deceased, comes to be Rs.93,100/-.

Considering the number of dependents, the deduction on the count of 'personal expenses' ought to be made to the extent of 1/3rd as done by learned Tribunal, which comes to be Rs.31,033/- and the residue earnings comes to be Rs.62,067/-.

Taking the age of the deceased, as observed aforesaid, as per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR*



(Civil) 77, the appropriate multiplier to be applied is ‘13’ instead of ‘12’, as applied by learned Tribunal. Thus, by applying the same, the loss of dependency comes to be **Rs.62,067x13=Rs.8,06,871/-**.

Besides the aforesaid, on the count of ‘**loss of consortium**’, all the appellants-claimants, are entitled to prevalent amount of Rs.48,400/- each i.e. **Rs.48,400x3=Rs.1,45,200/-** and they are also entitled to compensation, on the counts of ‘**loss of estate**’ as well as ‘**funeral expenses**’, which is **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to claimants, on account of death of Mahesh Chand @ Mahesh Chander Bhayana, is re-computed, as herein given:-

Loss of dependency	:	Rs.8,06,871/-
Loss of consortium	:	Rs.1,45,200/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.9,88,371/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.9,88,371-7,05,232=Rs.2,83,139/-**. On the enhanced amount of the compensation i.e. **Rs.2,83,139/-**, the claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. The enhanced amount of compensation, as now worked upon, shall be disbursed to the respondents-claimants, in equal shares.

Accordingly, the impugned Award dated 26.08.1998 stands



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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, the appeal filed by the Rajasthan Roadways Lohagar i.e. **FAO-2719-1999**, stands dismissed, whereas, the cross-objections filed by the claimants i.e. **XOBJC-105-CII-2019**, stands allowed.

The pending civil misc. applications, if any, shall stand disposed of.

March 26, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No