
(2015) 09 SHI CK 0136

In the High Court Of Himachal Pradesh

Case No : First Appeal From Order Nos. 425, 486 and 504 of 2008

Himachal Raod Transport Corporation

APPELLANT

Vs

Banti Devi and Others

RESPONDENT

Date of Decision : 18-09-2015

Acts Referred:

Citation : (2015) 3 ShimLC 1409

Hon'ble Judges : Mansoor Ahmad Mir, C.J.

Bench : Single Bench

Advocate : G.D. Sharma, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, C.J.

1. These appeals are the outcome of award, dated 7th June, 2008, passed by Motor Accident Claims Tribunal, Shimla, (for short, the Tribunal), in Claim Petition No. 22-S/2 of 2006, titled Banti Devi and others v. Managing Director, HRTC and others, whereby compensation to the tune of Rs. 8,85,000/-, with interest at the rate of 7.5%, from the date of filing of the Claim Petition till realization, was awarded in favour of the claimants and the Himachal Road Transport Corporation, (for short, the HRTC), being the owner of bus No. HP-07-3029, and respondent No. 3, who was the driver of bus bearing No. HP-11-9902, were jointly saddled with the liability, (for short, the impugned award). Since all the appeals arise out of one award, therefore, the same are taken up together for final disposal.

2. Precisely, in FAO Nos. 425 of 2008 and 504 of 2008, the HRTC and the Claimants, respectively, have questioned the impugned award on the ground of adequacy of compensation, while the driver of the private bus has challenged the impugned award by way of FAO No. 486 of 2008 on the ground that he was not negligent and has been wrongly saddled with the liability.

3. The learned counsel appearing for the HRTC submitted that he is under

instructions not to question the impugned award on any other ground, except on the ground of adequacy of compensation. His statement is taken on record. The learned counsel for the claimants submitted that the amount awarded by the Tribunal is on the lower side and the same needs to be enhanced accordingly.

4. Thus, in FAO No. 425 of 2008 and FAO No. 504 of 2008, the question needs to be determined is - Whether the amount awarded by the Tribunal is adequate or otherwise?

5. Admittedly, the deceased was a government employee and was drawing a salary of Rs. 18,874/- per month, as per the salary slip Ext. PW-5/A. The Tribunal, while assessing the loss of dependency, has taken the salary of the deceased as Rs. 18,000/- and after deducting 1/3rd amount towards the personal expenses of the deceased, held that the claimants lost source of dependency to the tune of Rs. 12,000/- per month. The Tribunal has rightly made discussion in paragraph 26 of the impugned award and I am of the considered view that the said findings are correct and cannot be said to be perverse in any manner. The Tribunal has correctly assessed the loss of source of dependency, therefore, the amount awarded by the Tribunal cannot be said to be either inadequate or excessive in any way.

6. Having said so, the appeals (FAO Nos. 425 of 2008 and 504 of 2008), merits to be dismissed.

7. Now, coming to FAO No. 486 of 2008, having been filed by the driver of the private bus, bearing No. HP-11-9902, the learned counsel for the appellant argued that the Tribunal has wrongly fastened the liability on the appellant since the appellant has never contributed to the accident in question.

8. I have gone through the Claim Petition, the replies filed to the same and the evidence adduced by the parties before the Tribunal. The driver of the HRTC, namely, Gopal, in paragraph 1 of his reply, and the driver of the private bus, namely, Prem Lal, in paragraphs 2 and 5 of the reply, have specifically admitted that the deceased was crushed in between the two buses, which is admission on their part that the accident had taken place due their negligence. The Tribunal has rightly made discussion in paragraphs 11 to 19 of the impugned award and has rightly held that the accident was on account of contributory negligence on the part of both the drivers.

9. Having said so, no interference is warranted in the impugned award. Accordingly, the appeal filed by the driver Prem Lal, (FAO No. 486 of 2008), also merits to be dismissed.

10. In view of the above discussion, there is no merit in all the appeals and the same are dismissed. Consequently, the impugned award is upheld. The Registry is directed to release the amount in favour of the claimants strictly in terms of the impugned award.