

(2013) 01 P&H CK 0275
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 168 of 2013 (O and M)

Pepsu Road Transport Corporation

APPELLANT

Vs

Kuneja Khatun and Others

RESPONDENT

Date of Decision : 15-01-2013

Acts Referred:

Citation : (2013) 3 ACC 230

Hon'ble Judges : Daya Chaudhary, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Daya Chaudhary, J.—The present appeal has been filed by Pepsu Road Transport Corporation, Patiala against award dated 3.9.2012 passed by Motor Accident Claims Tribunal, Ludhiana, vide which, respondents have been granted compensation of Rs. 7,01,200 along with interest @ 9% per annum from the date of claim petition till realization of the awarded amount. The award has been challenged on the ground that learned Tribunal has assessed income of the deceased as Rs. 150 per day, which comes to Rs. 4,500 per month, which is on excessive side whereas no reasoning has been given.

2. Learned Counsel for the appellant submits that the multiplier applied is also on higher side. Learned Counsel for the appellant also submits that learned Tribunal has ignored the statement of RW1-Kuldeep Singh, who is driver of the bus and has categorically stated that no such accident ever took place with the bus owned by the appellant Corporation.

3. Heard the arguments of learned Counsel for the appellant and have also perused the impugned award.

4. Admittedly, the respondents are L.Rs. of deceased-Mohd. Kabir Alam, who died in a motor vehicle accident on 1.2.2011 caused by bus bearing registration No. PB-10CJ-1738. As per finding recorded by the Tribunal, the accident was caused due to rash and negligent driving of the driver of bus. The evidence of

eye-witness Mohd. Jakir Hussain that the accident caused due to rash and negligent driving of the driver of the bus has been corroborated from the contents of the FIR. The post-mortem report was also proved and cause of death was due to injuries suffered in the accident. As per claim petition, the deceased was earning Rs. 15,000 per month and a certificate (Ex. C3) issued by Mukhia, GPR Abadpur was also placed on record. Learned Tribunal assessed the income of the deceased Rs. 150 per day, which comes to Rs. 4,500 per month. The deceased was 32 years of age and multiplier of 16 has been applied. The finding recorded by the Tribunal is reproduced as under: xxx xxx xxx

Issue No. 3

13. Onus to prove this issue was on the claimants. Claimants have claimed Rs. 10 lakh along with interest @ 12% per annum from the date of accident till the realization of the amount of award being the legal heirs of deceased Mohd. Kabir. They have claimed that Mohd. Kabir was earning Rs. 15,000 per month. However, as per certificate Ex. C3 issued by Mukhia, GPR Abadpur, the deceased was a labourer and was living below the poverty line. There is no documentary evidence on record regarding the income of the deceased. Claimant Akhatri Khatun vide her affidavit Ex. CA has stated that the deceased was working as contractor of finishing of marble at Ludhiana and was earning Rs. 15,000 per month. CW2 Mohd. Sahib vide his affidavit Ex. CB has also deposed on the same line. The claimants did not produce any document to prove the income of the deceased. However their own document Ex. C3 proves that the deceased was working as labourer and was living below poverty line. His income can thus be taken to be Rs. 150 per day. His monthly income would be Rs. 4,500 per month. There are five family members of the deceased including himself. 1/5th amount out of his monthly income is to be deducted on account of his personal and living expenses. The total loss of dependency of the claimants would then work out to be $4500 - 900 = 3600$. The annual loss of dependency would be $3600 \times 12 = 43200$. The claimants have stated in the claim petition that the deceased was aged 32 years. Claimant, Akhtari Khatun the wife of the deceased is aged 25 years. She has stated in the affidavit Ex. CA that the deceased is aged 32 years. Similarly, CW2 Mohd. Sahib has stated in the affidavit that the deceased was aged 32 years. As per law settled in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , the multiplier of 16 would be applicable. Thus the total dependency would be worked out to be $43200 \times 16 = 6,91,200$. The claimant Akhtari Khatun would also be entitled to sum of Rs. 5,000 on account of loss of consortium. The claimants are further entitled to another sum of Rs. 5,000 as funeral expenses. Thus the total compensation will be Rs. 7,01,200. All the claimants are entitled to equal share in this amount. Respondent Nos. 1 and 2 being the owner and driver of bus No. PB010CJ-1738 are jointly and severally liable to pay the amount of compensation. The claimants have claimed interest @ 12% per annum from the date of accident till the realization of the amount of compensation. However, in my opinion, the interest @ 9% per annum from the date of filing of claim petition till realization of the

award amount shall be reasonable. This issue is accordingly decided in favour of the claimants.

XXX XXX XXX

Keeping in view the age of the deceased as well as multiplier and also the minimum income, the compensation awarded to the respondents cannot be stated to be on higher side. Accordingly, there is no infirmity in the award passed by the Tribunal, which requires interference by this Court and the appeal being devoid of any merit is dismissed.