

(2010) 12 P&H CK 0157

In the Punjab And Haryana At Chandigarh

Case No : F.A.O. No's. 123, 758 and 762 of 1993

Punjab State and Another

APPELLANT

Vs

Sunita Gupta and Others
 Punjab Roadways and
Another Vs Ishar Singh and Another
 Ishar Singh Vs
Punjab Roadways and Others

RESPONDENT

Date of Decision : 23-12-2010

Acts Referred:

Citation : (2010) 12 P&H CK 0157

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Judgement

K. Kannan, J.—The appeals are at the instance of the State which owned Punjab Roadways and one appeal has been filed for enhancement

of compensation at the instance of the claimant whose wife had died in the accident. I proceed to dispose of FAO Nos. 762, 758, and 123 of

1993 through this judgment.

2. The accident was said to have been caused by a collision of a car with the Punjab Roadways Bus. The claimants were the representatives of the

deceased and injured passengers in the car and the representatives of the deceased persons travelling in a tempo and some persons who are

injured and travelling in the same tempo. The collision was so ghastly and with such high impact with the bus turned turtle and capsized on a

standing tempo. The contention on behalf of the claimants were that the representatives of the deceased persons in the car as well as in the tempo

and injured persons in the tempo were that the bus driver alone had been negligent in the driving of the vehicle. The driver had also examined and

he had his own version to give that the accident had taken place only by the

negligent driving of the car. But the Tribunal discarded his evidence and found the bus driver alone to be negligent. I do not want to detain the case at length on the issue of negligence, for a car can not in a normal circumstance can over turn the bus. Such a situation could happen only if the bus was coming at a very high speed and impedance caused by the impact must have been such that the bus itself capsized. The bus on a slow motion or in a reasonable speed could not have again capsized by a collision. I therefore, affirm the finding of the Tribunal that it was the bus driver who was negligent in driving of the vehicle.

3. FAO No. 762 of 1993 is against the award of compensation of Rs. 3,24,000/- for the claimants for the death of a person who was 38 years

old and the claimants were widow, 11/2 year old child and father. The deceased was said to be a partner in a business and the income tax return

for the business have filed to show that his gross income was Rs. 33,000/- and the tax paid for Rs. 3,494/- . The Tribunal took the income at Rs.

2,500/- per month and awarded compensation of Rs. 3,24,000/- . There is no cross appeal for enhancement of compensation. The assessment of

income at Rs. 2,500/- for a person who was an income tax assessee and whose annual income could be seen to be Rs. 30,000/- less tax, the

compensation assessed is modest and I see no reason to interfere with the same. The appeal is therefore, dismissed.

4. FAO No. 123 of 1993 is with reference to yet another passenger in a tempo who was 46 years old and who was said to be earning living by

stitching clothes and also serving as a house wife for a family. The Tribunal awarded a compensation of Rs. 40,000/- to the claimant husband. I

would take the average income of the deceased at Rs. 1,500/- make a deduction of 1/3rd and take the contribution towards family of her husband

at Rs. 1,000/- per month and adopt a multiplier of 13 to take the loss of dependence to Rs. 1,56,000/- . I will provide for another Rs. 9,000/-

towards loss of consortium to the husband and loss to another conventional heads and round it off at Rs. 1,65,000/- . The amount in excess over

what has already been awarded by the Tribunal shall attract interest at Rs. 6% from the date of the petition till the date of payment.

5. FAO No. 758 of 1993 is the appeal by the State Government and FAO No. 123 of 1993 is the appeal for enhancement of compensation.

Both these appeals are related to one another. FAO No. 758 of 1993 is dismissed and FAO No. 123 of 1993 is allowed to the above extent.

6. In view of the above, all the appeals are dispose of.