

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA
FAO No.705 of 2008
Decided on: 31.07.2015.

Secretary Home, Government of Himachal Pradesh and others
...Appellant

VERSUS

Chanchlo Devi and others **...Respondents.**

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The Hon'ble Mr.Justice Mansoor Ahmad Mir, Chief Justice.
Whether approved for reporting? Yes.

For the Appellants: Mr.Shrawan Dogra, Advocate General, with Mr.Vikram Thakur, Deputy Advocate General.

For the Respondents: Mr.Amit Singh Chandel, Advocate, vice Mr.S.D. Gill, Advocate.

Mansoor Ahmad Mir, C.J.(Oral):

Appellants, by the medium of the instant appeal, have questioned the award, dated 6th August, 2008, passed by the Motor Accident Claims Tribunal, Hamirpur, (for short, the Tribunal), in Claim Petition No.56 of 2007, titled Chanchlo Devi and others vs. The Commanding Officer and others, whereby compensation to the tune of Rs.10,16,776/-, 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 against the respondents, (for short, the impugned award).

2. The claimants have not questioned the impugned award, thus, the same has attained finality so far as it relates to them.

3. Feeling aggrieved, the appellants (respondents before the Tribunal) have challenged the impugned award by the medium of present appeal.

4. Facts of the case, in brief, are that on 1st June, 2007, the deceased Amar Singh, Head Constable, was traveling by Bus bearing No.HP-33A-1177, which rolled down the road near Beas bridge at Sujanpur due to the rash and negligent driving of its driver, namely, Raj Kumar, as a result of which the deceased sustained multiple injuries and lateron, succumbed to the same at PGI, Chandigarh. Thus, the claimants filed the claim petition claiming compensation to the tune of Rs.25.00 lacs, as per the break-ups given in the Claim Petition.

Respondents (appellants herein) resisted the Claim Petition by filing reply.

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On the pleadings of the parties, the following issues were settled by the Tribunal:

- “1.Whether the death of deceased Amar Singh was a result of rash and negligent driving on the part of late Shri Raj Kumar, deceased-driver of Mini Bus No.HP-33A-1177 while driving the said vehicle? OPP
2. If issue No.1 is proved in affirmative, to what amount of compensation the petitioners are entitled to and from whom? OPP
3. Relief.”

In order to prove their claim, the parties led their respective evidence.

After examining the evidence, the Tribunal held that the driver of the offending bus, namely, Raj Kumar, had driven the bus rashly and negligently and caused the accident. The said findings recorded by the Tribunal on issue No.1 are borne out from the record and accordingly, the same are upheld.

Coming to issue No.2, the deceased was a Head Constable and his salary, as admitted by the respondents in their reply to the Claim Petition, was Rs.14,746/-. The Tribunal, after deducting 1/3rd amount towards his personal expenses, held that the claimants lost source of dependency to the tune of Rs.9,831/- per month and applied the multiplier of 12.

Admittedly, the age of the deceased at the time of accident, was 50 years. Therefore, keeping in view the 2nd Schedule attached to the Motor Vehicles Act, 1988 and the dictum of the Apex Court in **Sarla Verma (Smt.) and others vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, which decision was also upheld by the larger Bench of the Apex Court in **Reshma Kumari and others vs. Madan Mohan and another, 2013 AIR (SCW) 3120**, multiplier of 12 has been correctly applied by the Tribunal and needs no interference.

In view of the above discussion, I am of the considered view that the amount of compensation

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awarded by the Tribunal is not excessive, rather the same is inadequate. However, the claimants have not questioned the impugned award. Accordingly, the impugned award is reluctantly upheld and the appeal is dismissed. The Registry is directed to release the award amount in favour of the claimants strictly in terms of the conditions contained in the impugned award.

**(Mansoor Ahmad Mir),
Chief Justice.**

July 31, 2015.

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