

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

CIMA No.164/2010, MP No.571/2012
c/w
CIMA No.172/2010

Date of order:-29/09/2016

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1. M.D.Pepsu Road Transport Corporation Vs. Gurmeet Singh & ors.
2. M.D.,Pepsu Road Transport Corporation Vs. Gurmeet Singh & ors.
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Coram:

Hon'ble Mr. Justice Ramalingam Sudhakar, Judge

Appearing counsel:

For the Petitioner/Appellant (s) : None.
For the respondent(s) : Mr.Mohd. Aamir Awan, Advocate.

- (a) Whether approved for reporting in Net : Yes
- (b) Whether approved for reporting in Press/Media : No.
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1. Both the appeals are of the year 2010 and the same are filed by the Managing Director, Pepsu Road, Transport Corporation, Patiala, Punjab both on partially disputing liability and also on the quantum of compensation.
2. The accident in this case happened on 16.01.2006. The respondent – Gurmeet Singh along with his wife Rimpi was travelling in Maruti Car towards Adampur (Himachal Pradesh). The vehicle of the appellant Transport Corporation bearing Bus No.PB11Z-6646 coming from the opposite direction collided with the Maruti car and in that accident, the wife of Gurmeet Singh namely Rimpi aged 26 years old suffered grievous injuries and she died. Gurmeet Singh had also suffered serious injuries. He was taken to Civil Hospital Mukerian Punjab and was treated there. He filed a claim for compensation both for the injury suffered by him and consequent to the death of his wife-Rimpi.

3. Before the Tribunal, the witnesses were examined. The injured claimant was examined as one witness and one Bir Bahadur was also examined to speak about the employment and income of the injured. The deceased Rimpi was a teacher in a school and the salary certificate also has been marked. As an eye witness, One Joginder Singh was examined. PW-Surinder Kumar was examined in relation to the employment of Rimpi and her income. Doctor V.K. Sharma was examined in relation to the injury suffered by the injured/claimant and the nature of disability suffered by him. In his evidence, Dr. V.K. Sharma stated that the injured/claimant Gurmeet Singh was operated for a case of fracture and dislocation of the right arm. There was a malunion of fracture with implant. He was having painful restriction of movements of right hip and inability to squat and sit cross leg. He walks with support and has limp on right side and the physical disability was assessed at 40%. One Devinder Singh – the driver of the offending vehicle was examined on behalf of appellant Transport Corporation. No other oral and documentary evidence was filed.

4. The Tribunal after considering the oral and documentary evidence, granted the following amount as compensation. In respect of death of Rimpi taking notice of her employment as a teacher, her age, her salary certificate produced and the oral evidence by the witness, the income was fixed at Rs.5000/- and after 1/3rd deduction, the pecuniary loss was fixed at Rs.3334/-. The annual loss of income was fixed at Rs.40,008/- and adopting the multiplier of '16' for the death of 26 years old Rimpi, the Tribunal granted Rs.6,40,128/- as pecuniary loss. Rs.15000/- was

granted as funeral expenses, Rs.15,000/- was granted for loss of consortium, totaling Rs.6,70,128/- along with interest at 7.5% per annum.

5. In so far as injury is concerned, the Tribunal granted the following amount:

“Petitioner has been found entitled to the compensation under the following heads on account of grievous injuries, suffered by him in the Motor Traffic Accident.

1. For Loss of future income = Rs.3,84,000/-
2. For pain and sufferings = Rs.80,000/-
3. For loss of amenities of life= Rs.80,000/-
4. For medical expenses = Rs.20,000/-”

6. On the first issue is relating to the plea that there is contributory negligence on the part of claimant Gurmeet Singh – driver of the Maruti car. Except the evidence of the driver, there is no other material. The eye witness was relied upon by the Tribunal to come to the conclusion that the driver of the bus was rash and negligent. In the absence of any specific material or records of the accident to show the nature of accident like FIR, Map etc., the finding of the Tribunal on this score cannot be faulted and accordingly the plea is rejected.

7. Insofar as quantum of compensation is concerned, on the death of 26 years old Rimpi and the admitted salary which is not disputed, the quantum of compensation determined is not excessive and more-so, in a case where the multiplier has been correctly adopted. Therefore, the claim insofar as the death is confirmed. Insofar as the injured/claimant is concerned, the Tribunal has gone on the basis of disability assessed by the Doctor and taking note of the fact that the injured/claimant has been discharged from his employment which is borne out by

the evidence on record, the Tribunal was justified in granting the compensation for loss of income consequent to the injury suffered based on the disability of 40%. Appropriate compensation for pain and suffering, for loss of amenities of life and for medical expenses has been granted. In fact, the quantum cannot be faulted because it is not excessive. The Tribunal failed to grant compensation in respect of extra nutrition, loss of income during the period of treatment, for attendant charges etc. Therefore, no case is made out for revising the quantum of compensation. Both the appeals are **dismissed**. The claimant is entitled to withdraw the amount already deposited.

(Ramalingam Sudhakar)
Judge

Jammu,
29.09.2016
Varun