
(1995) 07 P&H CK 0013

High Court Of Punjab And Haryana At Chandigarh

Case No: First Appeal from the Order No. 310 of 1985

Amar Nath

APPELLANT

Vs

Thakur Singh and Others

RESPONDENT

Date of Decision: July 2, 1995

Acts Referred:

- Motor Vehicles Act, 1939 - Section 110A

Citation: (1996) ACJ 17 : (1995) 111 PLR 162

Hon'ble Judges: Sarojnei Saksena, J

Bench: Single Bench

Advocate: Ravinder Arora, for the Appellant; G.K. Chatrath, A.G. and Vikas Cuccria, A.A.G., for the Respondent

Final Decision: Allowed

Judgement

Sarojnei Saksena, J.

Amar Nath appellant has filed this appeal against the award dated October 30, 1984, given by Shri R.S. Sharma, Motor Accidents Claims Tribunal, Ropar, wherein a compensation of Rs. 19,200/- has been granted to the claimant for the accidental death of his son Ranjit Singh.

2. In a nutshell, the claimant's case was that on January 30, 1984 at about 3.00 P.M. deceased Ranjit Singh was travelling from Ropar to his village in bus No. PUB-7833 driven by Thakur Singh respondent No. 1 and owned by respondents 2 and 3. Respondent No. 1 was driving the bus rashly and negligently. When the bus reached near the bridge of Bhakra-Sirsa canal due to excessive speed, respondent No. 1 lost control over the bus and it fell into the canal, thereby causing death of about 70 passengers. Claimant's son Ranjit Singh was one of them. Head Constable Gurmit Singh and Constable Gian Singh were the eye-witnesses of this accident. Gurmit Singh lodged the report and a criminal case was registered thereupon. At the time of accident Ranjit Singh was aged about 18 years and he was earning Rs. 1,000/- per

month from dairy farming as well as by working as a carpenter. Claimant's age is 65 years. He is the only legal heir of Ranjit Singh, who was having brilliant prospects in life. Hence he claimed Rs.2 lacs as compensation.

3. Respondent No. 1 filed a separate written statement, while respondents 2 and 3 filed a joint written reply, raising legal objections to the effect that the petition is bad for non-joinder of necessary parties and it is not maintainable. Even the cause of accident and the liability ensuing therefrom are denied.

4. The claims Tribunal arrived at a finding that at the time of accident the deceased was aged 18 years; the claimant is aged 65 years, the deceased was earning Rs. 1,000/- per month; dependency is assessed at Rs. 200/- and applying multiplier of 8 compensation of Rs. 19,200/- was awarded.

5. The appellant's learned counsel contended that the deceased was running a dairy and he was a skilled carpenter. He was earning about Rs. 1200-1300/- per month. He had bright future. The claimant is old father of the deceased. He was totally dependent on him. The claims Tribunal has wrongly assessed the dependency at the rate of Rs. 200/- per month. It should have been assessed minimum at Rs. 500/- per month and a multiplier of 12 should have been adopted.

6. Respondents learned counsel contended that the deceased was an unmarried youngman. Hence, in future he would have married and would have spent much more amount on his own family members. Taking this fact in to consideration, the claims Tribunal has rightly assessed dependency at the rate of Rs. 200/- per month. Hence no interference is called for.

7. In this case the claimant has deposed on oath that his son was earning Rs. 1200-1300/- per month, but in the claim petition the specific averment is that he was earning Rs. 1,000/-. There is no other evidence, oral or documentary on record to corroborate his sole testimony. The deceased was not the only son of the claimant. His two elder sons are alive. He has stated that they are living separately, but those sons have not been examined. He is also owning 2-1/2 killas of land. He himself is a carpenter-The deceased was helping him in his occupation. The claimant has also admitted that after the accident he has been given Rs. 15,000/- by the Government as ex gratia compensation. No doubt, this ex gratia payment cannot be taken into consideration while awarding compensation in this case, but at the same time all other factors of the case enumerated above have a strong bearing on the claimant's case. In my view, the Claims Tribunal has rightly assessed the dependency at the rate of Rs. 200/- per month, but the multiplier of 8 is wrongly applied. In my view, it should be 12 calculated accordingly the amount of compensation comes to Rs. 28,800/-. According to me, this should have been awarded as compensation to the appellant.

8. With this modification in the impugned award the appeal is allowed. The claimant is entitled to recover Rs. 28,800/- as compensation from the respondents with

interest at the rate of 12 per cent per annum from the date of petition. The parties are directed to bear their own costs.