

(1996) 02 P&H CK 0027

High Court Of Punjab And Haryana At Chandigarh**Case No:** First Appeal From Order No. 682 of 1987

Prem Singh and Others

APPELLANT

Vs

Bal Bahadur and Others

RESPONDENT

Date of Decision: Feb. 22, 1996**Acts Referred:**

- Motor Vehicles Act, 1939 - Section 110A

Citation: (1997) 1 CivCC 68 : (1996) 113 PLR 221 : (1996) 3 RCR(Civil) 587**Hon'ble Judges:** Sarojnei Saksena, J**Bench:** Single Bench**Advocate:** G.S. Gill, for the Appellant; Nemo, for the Respondent

Judgement

Sarojnei Saksena, J.

Claimants have filed this appeal against the order dated March 2, 1987, of the Motor Accident Claims Tribunal, Patiala, whereby only Rs. 60,000/- were awarded to appellants 1 and 2 only.

2. Briefly stated the facts of the case were that appellants 1 and 2 are the parents of deceased Onkar Singh and appellant No. 3 is minor brother of the deceased. On April 5, 1986, the deceased was going in tempo No. PJB-6723. At about 8.00 A.M. near Rampur on Chandigarh-Rajpura road truck No.HYA-5797 collided against the said tempo, wherein the deceased was travelling as a second driver. The deceased sustained fatal injuries and finally succumbed to them. The deceased was unmarried, aged 22 years and was getting Rs. 900/- per month as pay. He was giving Rs. 700/- to the appellants for their maintenance. This accident took place because of the rash and negligent driving of respondent Bal Bahadur, driver of the said truck which was owned by respondent M/s Bhagat Singh Gian Singh and was insured with respondent No. 3. The New India Assurance Company Limited. In the claim petition, driver of the tempo Jugraj Singh, its owner Gurminder Singh Brar and its Insurance Company were also impleaded as parties, though the name of this Insurance

Company was not disclosed.

3. Respondents 1 and 2 were proceeded ex parte. Respondents 4 and 5 filed their written statement and supported the claim petition. Respondent No. 3 filed its reply and decided its liability to pay the compensation. It was allowed to take all those defences which respondents 1 and 2 were entitled to take. Thereupon issues were framed and evidence was recorded.

4. The Claims Tribunal held that this accident took place because of the rash and negligent driving of Bal Bahadur, driver of the aforementioned truck, wherein deceased Onkar Singh sustained multiple injuries and breathed his last. The Tribunal also held that the deceased was unmarried, aged 22 years and was earning Rs. 900/- per month as driver of the said temp. Deceased's father Prem Singh deposed that his son was giving Rs. 700/- per month to the claimants for their maintenance, but the Tribunal further held that in due course of time the deceased would have married and in that event would not have given larger amount to the claimants for maintenance. Any how the Tribunal held that the deceased would have spared more than Rs. 300/- per month for the maintenance of the claimants. Thus, their dependency was determined at Rs. 3750/- per annum. Considering the age-group of appellants 1 and 2 as 48 and 45 years, the Tribunal adopted a multiplier of 16 and awarded Rs. 60,000/- as compensation to claimant-appellants 1 and 2 with interest at the rate of 12 percent per annum from the date of petition i.e. July 31, 1986. The Tribunal also held that respondents 1 and 2 are liable to pay this amount to the claimants jointly and severally, but as the said truck was insured with respondent No. 3 the Insurance Company alone was held liable to make the payment.

5. The appellant's learned counsel contended that the deceased was earning Rs. 900/- per month. He was aged 22 years and was unmarried. He would have definitely married and in that event would have spent much more amount on his own family, but the Tribunal, though considering that in future he might have earned more, has not taken that fact into consideration while determining the dependency of the claimants. His second grouse is that from the last para of the award it is evident that this compensation is awarded to claimants 1 and 2 only. Claimant No. 3, being the younger brother of the deceased, was also a claimant. He was also dependent of the deceased. The learned Tribunal has failed to consider his prayer.

6. The above contentions deserve merit. No doubt, the deceased was unmarried and would have definitely married had he lived longer. He was earning Rs. 900/- and would have earned more in future. Thus future prospects of the deceased should also have been considered by the Tribunal while determining the dependency. In my considered view, taking into account the future prospects of the deceased his monthly income should have been assessed at Rs. 1150/- and the dependency of the claimants should have been determined at Rs. 550/- per month, making a

reasonable allowance for the expenses which the deceased might have incurred on his own family. The Tribunal has rightly adopted a multiplier of 16. Thus, in my considered view, all the three claimants are entitled to recover Rs. 1,05,600/- as compensation from the respondent-Insurance Company. They are also entitled to recover interest at the rate of 12 percent per annum from the date of petition i.e. July 31, 1986, as ordered by the Tribunal. It is further directed that out of the awarded amount of compensation, initially Rs. 4000/- should be paid to each claimant. Out of the remaining amount of Rs. 93,000/-, three FDRs of Rs. 31,200/- each should be taken from some nationalised bank in the names of these claimants for a period of ten years. Each claimant shall be entitled to withdraw the amount of accrued interest every month. The appeal is allowed in the above terms.