
Ajit Kaur Vs Kulwinder Singh and Others

Frist Appeal From Order No. 1007 of 1988

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Jan. 9, 1996

Acts Referred:

Motor Vehicles Act, 1939 " Section 110A

Citation: (1996) 113 PLR 218

Hon'ble Judges: Amarjeet Chaudhary, J

Bench: Single Bench

Advocate: Kanwaljit Singh, for the Appellant; S.S. Aulakh, for the Respondent

Judgement

Amarjeet Chaudhary, J.

The Motor Accident Claims Tribunal Ludhiana, in a petition u/s 110A of the Motor Vehicles Act, vide its award

dated September 4, 1987, had awarded a sum of Rs. 36,000/- as compensation to the claimant on account of death of her son Kulbir Singh aged

20 years in the accident on January 24, 1986. Dissatisfied with the award, the claimant has filed this appeal, for enhancement of compensation.

2. The enhanced compensation has been sought on the ground that the Motor accident claims Tribunal had failed to properly calculate the income

of the deceased and the dependency of the claimant on her son. It has been argued that the deceased was a milk vendor and was earning more

than Rs. 1,500/- per month. the deceased used to pay Rs. 1,000 to the claimant for house hold expenses but the Tribunal erred in assessing the

income of the deceased at Rs. 600/- and holding that the deceased was contributing only Rs. 400/- for house hold expenses. The counsel

contends that the entire approach of the Tribunal for calculating the dependency cannot be sustained, being based on conjectures and surmises. He

further contends that keeping in view of the income of the deceased at Rs. 1,500/- per month, the claimant is entitled to enhanced compensation.

3. The learned counsel for the respondents, on the other hand, contends that there is no justification for enhancement of compensation and the

appeal deserves to be dismissed.

4. After having heard the learned counsel for the parties and on consideration of the evidence, this Court of the view that the income of the

deceased and dependency of the claimant were not properly worked out. It has come in the evidence that the deceased was a milk vendor and

from the sale of milk, his income in any case cannot be less than Rs. 900/- per month. The deceased must have been spending one third of his

income for his own maintenance and must have been contributing two-third for house hold expenses. In this view of the matter, the monthly

dependency of the claimant would be Rs. 600/- per month i.e. Rs. 7,200/- per annum.

5. The deceased was a bachelor at the time of accident. He was likely to be married after five years if he had been alive. In this view of the matter,

it can safely be concluded that for five years the deceased would have contributed Rs. 600/- per month to his mother i.e. Rs. 36,000/- and after

his marriage, he would have contributed atleast Rs. 300/- to his mother for her maintenance i.e. Rs. 18,000/- for the remainder span of her life.

Therefore, the claimant would be entitled to compensation of Rs. 54,000/- in all.

6. For the foregoing reasons, the claimant is held entitled to Rs. 54,000/- as compensation for the death of her son in the accident which took

place on January 24, 1986. In addition, the claimant will be entitled to interest at the rate of 12% per annum on enhanced amount from the date of

filing claim petition till payment. It is pertinent to mention here that the claimant has already been awarded interest at the rate of 12% per annum

from 20.2.1986, the date of petition, till realization which he will also get. The compensation of Rs. 36,000/- already awarded by the Motor

Accident Claims Tribunal Ludhiana will be adjusted against this amount. The appeal is allowed in the above terms and the award of the Motor

Accident Claims Tribunal Ludhiana is modified accordingly. There will be no order as to costs.