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**(1989) 09 P&H CK 0024**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** None

Bhushan Kumar and Others

APPELLANT

Vs

Basant Kaur and Another

RESPONDENT

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**Date of Decision:** Sept. 1, 1989

**Citation:** (1990) 2 ACC 346

**Hon'ble Judges:** S.S. Sodhi, J

**Bench:** Single Bench

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**Judgement**

S.S. Sodhi, J.

The matter here concerns the Award of Rs. 76, 800/- as compensation to the parents of Jaspal Singh deceased who was killed when while standing besides a rehri purchasing lemons, he was run over by the truck PUU-6830. This happened at about 6-15 P.M. On June 27, 1982 near the Joginder Chowk, Moga on the Ferozepure-Moga Road. It was the finding of the Tribunal that the accident had been caused due to the rash and negligent driving of the truck and the driver there of was Chamkaur Singh.

2. In appeal here, the owner of the truck, Bhushan Kumar sought to disclaim liability for the accident on the plea that Chamkaur Singh had unauthorisedly taken this truck from where it was parked and then caused this accident. This contention was negatived by the Tribunal after taking into account the evidence on record. This finding has since become final in view of the dismissal of the connected appeal arising out of the same accident concerning the death of Kulwant Singh who was also killed along with Jaspal Singh deceased. (This appeal being F.A.O. 686 of 1984, Bhushan Kumar v. Manjit Kaur and Ors. decided on August 16, 1984).

3. The only question that thus survives for determination is that pertaining to the quantum of compensation payable to the claimants. Jaspal Singh deceased was about 30 years of age at the time of his death and the evidence led shows that he was engaged in the business of the manufacture of mixies and coolers since the last three years and was the sole proprietor of Messrs Mechtronics Engineering Works.

He was a graduate having obtained a Degree in Engineering from the University of Kurukshetra.

4. A reading of the testimony of P.W. 10- Atma Singh of the Income Tax Officer, Moga would show that according to the return for the assessment year 1981-82, the net profit of Mechtronics Engineering Works was Rs. 7,308.13. The next return which was filed after the death of Jaspal Singh for the assessment year 1982-83, the net profit was show to be Rs. 19,327.61 paise. It was on this basis that the claimants sought income of the deceased to be assessed in working out the compensation payable to them.

5. In dealing with this aspect of the matter, it deserves note that no accounts are forthcoming with regard to the return filed for the year 1982-83 not has any other material been placed on record to account for this sudden increase in the profits of the firm.

6. Further, as regards the compensation payable to the claimants, it has, at any rate, to be borne in mind that had Jaspal Singh deceased lived, he would have got married. Indeed, it was the testimony of his mother Sat Kaur that he wanted to get married within a year. On the deceased getting married, he would have had upon him the expenses of his own family too and consequently the amount that he could have spread for his parents would have been after he had made an allowance for his family expenses. Seen in this light, in the context also of the principles laid down by the Full Bench in Lachkman Singh v. Gurmit Kaur no exception can be taken to the compensation as awarded to the claimants by the Tribunal which is accordingly hereby up-held and affirmed.

7. Both the appeals are consequently hereby dismissed. In the circumstances, however, there will be no order as to costs.