

Sukhdev Singh Vs Gurdev Kaur and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Jan. 27, 1993

Acts Referred: Motor Vehicles Act, 1939 " Section 110A

Citation: (1993) 104 PLR 131

Hon'ble Judges: Amarjeet Chaudhary, J

Bench: Single Bench

Advocate: G.S. Grewal and Jarnail Kaur, for the Appellant; Nemo, for the Respondent

Final Decision: Dismissed

Judgement

Amarjeet Chaudhary, J.

This appeal is filed by the owner of Truck No. RNE 5967 and its driver, who were held liable to pay

compensation amount of Rs. 2,88,000/- to the claimants alongwith interest at the rate of 12% by the Motor Accident Claims Tribunal, Ludhiana.

The liability of the Insurance Company was limited to the extent of Rs. 1,50,000/-. The appellants have taken the plea that their truck bearing No.

RNE 5967 was not involved in the accident and the multiplier has been wrongly applied.

2. The facts of the case are that Smt. Gurdev Kaur widow of Nirmal Singh deceased, her four minor children and Dhanna Singh alias Dhian Singh,

father of the deceased Nirmal Singh filed claim petition u/s 166 of the Motor Vehicles Act claiming 4 lacs as compensation on account of the death

of Nirmal Singh. Nirmal Singh was employed as truck driver on truck No.PCJ-5143 owned by Pritarm Singh S/o Amar Singh of village Raipur,

on a monthly salary of Rs. 1800/- and the claimants were the dependents of the deceased at the time of his death. They pleaded that on 28.6.1989

at about 9 P.M. Nirmal Singh alongwith Conductor Ganga Singh of Truck No. PCJ-5143 were on their way from Sahnewal to Dehlon after

loading tyres and tubes. When the truck reached at distance of 4 kilometers from village Sahnewal, ropes of the truck were loosened. Nirmal

Singh stopped the truck on the extreme left side of the road with rear lights on. In the meantime, truck No. RNE 5967 driven by Rattan Singh

owned by Sukhdev Singh appellant came at a very fast speed from the side of Sahnewal and struck against the backside of truck No PCJ 5143

and in the process Nirmal Singh received multiple injuries and fell down on the ground. He was removed to Civil Hospital, Dehlon. But he died on

the way as a result of injuries suffered in the accident. The injuries suffered by Nirmal Singh were grievous and were caused due to rash and

negligent driving of truck by Rattan Singh. Case F.I.R. No. 228 dated 29.6.1989 was registered in Police Station Sadar Ludhiana u/s 279/304A,

Indian Penal Code. The offending truck was insured with New India Assitrance Company respondent appellant. As such, according to the

claimants Rattan Singh driver, Sukhdev Singh owner and New India Assurance Company-insurer, of truck No. RNE-5967 were all liable to pay

compensation.

3. The claim was contested by the respondents-appellants. The Insurance Company had taken the plea that truck No. RNE 5967 was insured but

not comprehensively. As such, the liability of the Insurance Company was limited to the extent of one lac fifty thousand only

4. On the pleadings, the following issues were framed :-

1. Whether the accident on 28.6.89 between truck bearing registration No. PCJ 5143 and truck No. RNE 5967 driven by Rattan Singh,

respondent No. 1 took place due to rash and negligent act of said Rattan Singh in driving his truck No. RNE-5967, as alleged ? OP-Claimants.

2. Whether the death of Nirmal Singh in said accident is due to the aforesaid accident ? OP-Claimants.

3. Whether the applicants are the legal representatives of Nirmal Singh-deceased and were dependent on him at the time of his death ? OP

Claimants.

4. To what amount and against whom, the claimants are entitled ? OP-Claimants.

5. Relief.

All the issues were decided against the respondent-appellants.

5. I myself have gone through the evidence, perused the trial Court's file and have seen the photographs of the trucks involved in the accident

which are Exhibits PW 6/5 to PW 6/8 correspondingly.

6. Ganga Singh (PW 3) has given an eye-witness account. He has stated in categorical terms that parking lights of the truck bearing No. PCJ 5143

were on, that Nirmal Singh while, standing on the road on the backside of the truck was tightening the ropes of the truck when truck No. RNE

5967 driven by Rattan Singh came at a very high speed and struck against the truck PCJ 5143 as a result of which Nirmal Singh fell down on the

ground with multiple injuries. Truck No. RNE 5967 after the impact struck against truck No. PCJ-5143, as a result of which truck No. PCJ 5143

was driven forward while the offending truck came to a halt after covering some distance. This witness was cross examined at length and he stood

the test of cross-examination. The respondents were not able to extract anything. Even otherwise, from the photographs, it is seen that truck PCJ

5143 was parked on the left side of the road and its position was changed after the offending vehicle struck against it. Thus, the involvement of

truck RNE 5967 in the accident in which Nirmal Singh lost his life is well established.

7. Dr. Surinder Mohan, A.W.I had opined that all the injuries on the person of Nirmal Singh could not be the result of fall from higher to lower

level. Cause of death in the opinion of the Doctor was due to shock and haemorrhage as a result of multiple injuries and injuries to the vital organ

which were sufficient to cause death in the ordinary course of nature. It has also come on record that Rattan Singh was prosecuted for an offence

u/s 179/304A, I.P.C. In this view of the matter, the death of Nirmal Singh is not in dispute.

7. It has come in evidence that the deceased was 40 years of age at the time of death and was drawing Rs. 1800/- per month All the claimants

were dependant upon the deceased. There is nothing on the record to disbelieve the statements of the A.Ws. in this respect. Keeping in view the

monthly income of the deceased the monthly dependency of Rs. 1200/- has been rightly assessed by the Motor Accident Claims Tribunal. The

Tribunal has also correctly applied a multiplier of 20 taking into account the fact that the deceased was 40 years of age at the time of death and

could have lived for another 30 years or so.

6. In view of the foregoing discussion, no interference is called for in the award of the Motor Accident Claims Tribunal and this appeal is hereby

dismissed being devoid of merit, with costs. Costs Rs. 1,000/-