

(1992) 01 P&H CK 0034

High Court Of Punjab And Haryana At Chandigarh

Case No: First Appeal from Order No. 998 of 1987

Mrs. Sudesh Kumari
Dua and Others

APPELLANT

Vs

Ramesh and Others

RESPONDENT

Date of Decision: Jan. 29, 1992

Acts Referred:

- Motor Vehicles Act, 1939 - Section 110, 110A, 110CC

Citation: (1992) 2 ACC 751 : (1992) ACJ 899 : (1992) 102 PLR 161

Hon'ble Judges: V.K. Jhanji, J

Bench: Single Bench

Advocate: V.K. Kataria, for the Appellant; Pradip Bedi and P.S. Saini, for the Respondent

Final Decision: Allowed

Judgement

V.K. Jhanji, J.

This appeal has been filed by the appellants whose claim petition was allowed by the Motor Accident Claims Tribunal and they were held entitled to a total compensation of Rs. 86,944/- with interest at the rate of 12% per annum from the date of filing the claim petition till realization of the amount. The Tribunal found that the accident took place on account of the negligence of the truck driver.

2. Jagdish Kumar Dua was travelling in tempo from Hissar to Ambala when the tempo struck against a parked truck. The truck was parked on the wrong side of the road. As a result of the accident, Jagdish Kumar Dua who was 42 years of age at the time of accident, died at the spot. Claim petition was preferred by his widow and two minor daughters before the Motor Accident Claims Tribunal. The Tribunal while allowing the said claim petition, awarded a total compensation of Rs. 86,944/- with interest at the rate of 12% per annum from the date of filing of claim petition. Being dis-satisfied with the said award, the claimants have come to this Court by way of present appeal.

3. Mr. Vinod Kumar Kataria, learned counsel for the appellants contends that the Tribunal while holding that the deceased at the time of accident was a partner to the extent of 10% in a wine shop known as M/s. Sarwan Singh Jagdish Kumar, Hissar Road, Ambala City, assessed the annual income of the deceased at Rs. 8,148/-. He further contends that the Tribunal erred in holding that the deceased was spending 1/3rd for self-maintenance, rather he was not spending that much amount on himself. He further submits that considering the age of deceased, multiplier of 20 should have been applied instead of 16 as applied by the Tribunal.

4. After hearing the learned counsel for the parties, I am of the view that the order of Motor Accident Claims Tribunal deserves to be modified. Admittedly, the deceased was a young man of 42 years.

5. The next question which arises for consideration is applying of multiplier. Learned counsel for the appellants has referred to some decisions on the subject where multiplier of more than 20 was applied In *Jyotsna Dey v. State of Assam* 1987 91 P. L. R. 646 , where the age of the deceased was 45 years, a multiplier of 25 was applied, but 20% deduction was made on account of lump sum payment, in *Smt. Kiran Wati, widow v. Hari Singh* 1991 100 P. L. R. 555, where the deceased was 29/30 years of age, multiplier of 20 was applied, and in *Smt. Urmila Devi v. Baljit Singh* (1989) 95 P.L.R. 562, where the deceased was 39 years of age, multiplier of 20 was applied.

6. In the above-referred cases, the ages of the deceased were between 29 to 39 years; therefore, multiplier of 20 was applied. In the instant case, the deceased was 42 years of age at the time of accident, and therefore, in my view, multiplier of 18 is considered just and proper. Applying the same to the dependency of the appellants at the rate of 5,434/-per annum, it would come to Rs. 97,812/-. Thus, the order of Motor Accident Claims Tribunal is required to be modified to this extent. Learned counsel for the appellants has also relied upon a decision in *Rukmani Devi v. Om Parkash* 1991 A. C. J. 3 , to contend that the appellants are also entitled to interest at the rate of 15% per annum. I agree with this contention of learned counsel.

7. For the reasons recorded above, the appeal is allowed with costs, which are assessed at Rs. 500/-, and the order of Motor Accident Claims Tribunal is modified to the extent indicated above. The appellants shall be entitled to a total sum of Rs. 97,812/- as compensation, to be paid by the respondents jointly and severally, along with interest at the rate of 15% per annum with effect from the date of filing the claim petition till realisation of the amount. The amount of compensation shall be paid to the appellants in equal shares. The share of the minors shall be deposited in some nationalised bank in fixed deposit carrying interest and the same shall be allowed to be withdrawn on their attaining majority.