(1973) 01 P&H CK 0026

High Court Of Punjab And Haryana At Chandigarh

Case No: Letters Patent Appeal No. 196 of 1972

Major Jagjit Singh and others		APPELLANT
	Vs	
Kartar Singh and others		RESPONDENT

Date of Decision: Jan. 2, 1973

Acts Referred:

- Motor Vehicles Act, 1988 - Section 110A

Citation: (1973) ACJ 147

Hon'ble Judges: Harbans Singh, J; Bal Raj Tuli, J

Bench: Division Bench

Advocate: L.M. Suri with Mr. R.K. Mittal, for the Appellant; S.K. Sayal for Advocate Genaral, Punjab, for the Respondent

Final Decision: Dismissed

Judgement

Bal Raj Tuli, J.

Shrimati Surjit Kaur Dhillon, M. A., aged about 32 years, Lecturer in English in the Lyallpur Khalsa College for Men at Jullundur, was Killed in an accident at about 12-15 P.M. on July 22, 1967. While she was returning home from her college, she was knocked down by jeep No. P.N J. 9663 belonging to the Public Health Department of the Punjab Government. Her husband Major Jagjit Singh and her minor son Jasjit Singh aged 6 years filed an application for compensation u/s 110-A of the Motor Vehicles Act before the Motor Accidents Claims Tribunal, Jullundur City. The Tribunal awarded Rs. 72,764.45 paise as compensation to the two claimants by an award dated April 6, 1970 against which two cross appeals were filed by the State of Punjab and the claimants. Both those appeals were dismissed by the learned Single Judge by order dated March 17, 1972, and the present appeal under clause 10 of the Letters Patent has been filed by the claimants against that order.

2. The only point that has been argued in the appeal by the learned counsel for the appellants is the quantum of compensation awarded to the appellants. Before the Tribunal a statement (Annexure "A") was tiled which showed the amount that the deceased would have earned from July 22, 1967, to July 16, 1993, from the salary according to her scale of pay. The amount worked out is Rs. 1,45,146.67 paise. On July 16, 1993, the deceased would have attained the age of 58 years, but the learned Tribunal was of the opinion that she could be expected to live up to the age of 52 years and allowed compensation on that basis. Up-to the attainment of 52 years of age, she would have earned Rs. 1,09, 146.67 paise according to Annexure "A". To that amount a cut of 33 per cent was applied on account of lump sum payment of compensation with the result that the net compensation awarded was Rs. 726 764.45 paise The learned Single Judge upheld that award and we find no reason to differ from the reasoning of the learned Single Judge affirming the decision of the Tribunal. However, the learned counsel for the appellants has emphasised that according to A. W. 11 Pritam Singh, Vice Principal of the College, the scab of pay which the deceased was drawing had been revised about a month prior to her death with the result that the was to get Rs. 428/- per mensem as salary at the time of the accident instead of Rs. 320/ and that the compensation should have been determined on the basis of the revised salary. Another point urged by the learned counsel for the appellants is that the learned Single Judge and the learned Tribunal erred in law in holding that the deceased would have lived up to the age of 52 years and not 55 years or longer. There are cases in which compensation up to the age of 70 years has been allowed. The third point pressed is that the cut of 33 1/3 per cent is not justified and lastly that the income from private tution amounting to Rs. 150/- per mensem has not been taken into consideration.

3. Dealing with the longevity of her life, the learned Tribunal and the learned Single Judge have given cogent reasons for coming to the conclusion that the deceased would have probably lived upto to the age of 52 years. Taking into consideration the danger involved in child birth and the fact of her sex, it cannot be said, that the reasoning and the conclusion arrived at by the learned Single Judge are so perverse in point of fact that we must interfere in Letters Patent Appeal wherein the interference is only on points of law or gross errors of fact making the findings of fact perverse. Taking the hazard in life, we cannot say that in every case a woman would live upto the age of 70 years or for that matter upto any age. The accident took place in 1967 and average life of 52 years for a female in this case could be considered reasonable. We, therefore, repel the submission made by the learned counsel for the appellants that the compensation should have been awarded on the basis that the deceased would have lived at least upto the age of 55 years.

4. The second question is with regard to monetary basis for the calculation of compensation. Taking her income as Rs. 428/- per mensem on the date of her death, she would have earned Rs. 1,02,720/- in 20 years and would have at least spent one-third of her income on herself. It is in evidence that she was contributing the whole of her income

to wards the family expenses which included herself It is, therefore, legitimate to assume that one-third of her income would have been spent on her. This sum of Rs. 1,02,720/- has, therefore, to be reduced by one third in order to determine the reasonable contribution that she would have made to the estate during her lifetime if she had live upto the age of 52 years. The net amount thus works out to Rs. 68,480/-. To this amount can be added a sum of Rs. 5,000/- on account of loss of love, effection, consortium etc., so that the amount of compensation comes to Rs. 73,480/-, but the appellants have been awarded Rs. 72,704.45 paise and therefore, there is no scope for enhancement of the compensation. By this calculation no reduction in the amount of compensation has been mace on account of lump sum payment because the amount of compensation has been determined in the income of the deceased at the time of her death. The learned Tribunal and learned Single Judge were justified in applying a cut of 331/3 per cent because her income, according to the scale of pay, including the increments, had been considered. The cut on account of lump sum payment is not made because of the uncertain and imponderable factors which may come about in future resulting in the increase or decrease of her income. But if the increases in income are taken in accounts, then it is a case for applying a reasonable reduction on account of lump sum payment, No reduction on account of lump sum payment has to be made if the compensation is determined on the basis of the income at the time of the accident without taking into calculation any future increases therein. We are, therefore, of the opinion that in the circumstances of this case, the sum of Rs. 72,764.45 paise awarded to the appellants by the learned Tribunal and affirmed by the learned Single Judge is quite adequate, justified and reasonable and does not call for any enhancement.

5. With regard to the last point as to the income of the deceased from private tution amounting to Rs. 150/- per mensem, the only evidence relied upon by the appellants is the statement of Captain M.S. Toor (A. W. 9), who stated that he was having tution from the deceased. The learned Tribunal did not consider, his statement to be convincing in the absence of any receipt. This point does not seam to have been argued before the learned Single Judge and ground No. 12 of the Grounds of appeal before us reads as under:

That the learned Single Judge has erred in law in not awarding any compensation for the loss to the appellants due to the loss of the extra earnings which the deceased had from tutions etc.

Significantly nothing has been said whether this point had been urged before the learned Single Judge. The only evidence of Captain M. S. Toor (A. W. 9) on this point was not believed by the learned Tribunal and the matter does not seem to have been agitated before the learned Single Judge and, therefore, we do not find any reason to go into that matter in this appeal.

6. For the reasons given above, there is no merit in this appeal which is dismissed, but the parties are left to bear their own costs.

Harbans Singh C. J.

7. I agree.