

(2006) 07 P&H CK 0195

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Thakar Singh and Another

APPELLANT

Vs

Narinder Singh and Others

RESPONDENT

Date of Decision: July 19, 2006

Citation: (2007) ACJ 2605 : (2007) 1 RCR(Civil) 349

Hon'ble Judges: Uma Nath Singh, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Uma Nath Singh, J.

Despite reminders by way of notices sent by the Registry, Mr. M.B. Singh, learned Counsel for the insurance company, respondent No. 3, is not present.

2. Heard learned Counsel for the parties and perused the record. This F.A.O. arises out of an award dated 6.9.1990 passed by learned Presiding Officer, Motor Accidents Claims Tribunal, Amritsar in M.A.C.T. Case No. 5 of 1987, awarding a sum of Rs. 34,176 in a death case of a young man of 23 years, said to be employed as Laboratory Assistant.

3. It appears that on the date of accident, i.e., 12.4.1987, deceased Davinder Singh was going from Majitha Road, Amritsar to the Civil Hospital, Amritsar on his bicycle. His two nieces, namely, Ravinder Kaur and Rajwinder Kaur, were also sitting on the bicycle. The offending vehicle (being truck No. RSC 9764), said to be driven by Narinder Singh, respondent No. 1, rashly and negligently, appeared from the opposite side. It struck against the bicycle of the deceased, causing multiple injuries to him. The children sitting on the bicycle also received injuries in the accident. Deceased was shifted to S.G.T.B. Hospital, Amritsar, where he succumbed to the injuries. One Jaspal Singh is the witness to the occurrence. A report of the accident was lodged with the police the same day. As the accident took place on account of rash and negligent driving of the offending vehicle by its driver, the claimants laid a

claim of Rs. 5,00,000 as compensation. The driver of the offending vehicle filed a written reply denying the allegations. As the offending vehicle was insured, the owner of the vehicle was proceeded *ex parte*. The insurance company being respondent No. 3 before the Tribunal filed a separate reply. Tribunal, amongst others, framed the issues as to whether deceased Davinder Singh died in the road accident caused by the offending vehicle said to be driven rashly and negligently; whether the claimants were entitled to get compensation and whether the petition was barred by time. Dr. Vasdev Sharma, Medical Officer, appeared as AW 2. He had conducted the post-mortem of the deceased and proved the post-mortem report, Exh. A2. Mohinder Kaur, AW 3, is the mother of the deceased. She deposed that deceased was earning an amount of Rs. 2,000 per month, as he was serving in a private factory and was also doing the electricity repair work. He was unmarried. She also stated that she and her husband were fully dependent upon the deceased and they have no independent source of income. Surinder Kumar, AW 4, is an eyewitness of the accident. According to him, the offending vehicle was being driven at a fast and high speed and it struck against the bicycle on wrong side. He carried deceased Davinder Singh and two children to the hospital. He has also proved the claimant's case. Jaspal Singh, AW 5, was standing with Surinder Kumar, AW 4, on the scene of occurrence. He has corroborated AW 4. Jagmohan Joshi, AW 6, is the employer and owner of the firm, where the deceased was working. According to him, he was paying Rs. 445 per month as salary to the deceased. He proved Exh. AW 6/1, the voucher regarding payment of salary. According to him, the deceased was also earning 20 per cent bonus, apart from the salary on the occasion of Diwali. Thakar Singh, AW 7, is the father of deceased. According to him, the deceased was earning salary of Rs. 500 per month. He also used to work as labourer after his employment hours. Further, he used to work with his brothers on electric repair shop. Thus, he used to earn Rs. 1,500 per month from outside. According to him, the deceased was earning around Rs. 2,000 per month. On the other hand, Narinder Singh, RW 1, driver of the offending vehicle stated that as the brakes of the vehicle failed, accident took place. It appears that there is no mechanical examination report of the offending vehicle on the record. The learned Counsel for appellants submitted that Tribunal fell in serious error in calculating the dependency amount, inasmuch as it has not only deducted 1/3rd to be spent on himself, but that apart, 50 per cent of the rest of the dependency amount also. According to him, the Tribunal has only accepted the statement of the employer, saying that he was earning around Rs. 445 per month and not the other earnings. The deceased was a young man of 23 years, said to be healthy and while keeping aside the amount calculated by the Tribunal, if his income is assessed as a labourer (looking to the fact that a labourer is being paid around Rs. 100 per day), his income can be safely assessed to be Rs. 2,500 per month. Accordingly, the annual dependency would come to Rs. 30,000. However, it has appeared in the evidence of his parents that he was unmarried and they had other sons also. Thus, the deceased may be spending half of the amount on himself, hence the amount of compensation would come to

Rs. 15,000 per year. Against the age group between 20 and 25, the suitable multiplier prescribed by the Schedule is 17. But looking to the age of the parents, i.e., 60 years and 65 years, only the multiplier of 13 needs to be applied, in the facts and circumstances of the case. Thus, total amount would come to Rs. 1,95,000. That apart, the claimants would be entitled to get Rs. 10,000 for funeral expenses. Thus, in total the claimants would be entitled to receive Rs. 2,05,000. The enhanced amount shall carry the interest at the rate of 6 per cent per annum from the date of the application. Accordingly, the compensation amount of Rs. 34,176 is being enhanced to Rs. 2,05,000 with the interest at the rate of 6 per cent per annum from the date of the application.

Hence, this F.A.O. No. 899 of 1990 is hereby allowed in terms of the aforesaid directions.