Ravel Singh and Another Vs Darshan Lal and Others

None

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Sept. 13, 2006

Acts Referred:
Penal Code, 1860 (IPC) â€" Section 304A

Citation: (2007) 2 ACC 129

Hon'ble Judges: Surya Kant, J

Bench: Single Bench

Judgement

Surya Kant, J.
This appeal has been preferred by the claimants against the award dated 23rd July, 1987 passed by the Motor Accident

Claims Tribunal, Jalandhar whereby they have been awarded compensation of Rs. 1,08,000 along with interest @ 12% per annum on account of

death of their son-Jasbir Singh in a motor vehicular accident which took place on 28th April, 1986. The appellant seek enhancement of the

compensation.

2. Shorn of details, son of the appellants, namely, Jasbir Singh (since deceased) was employed as a driven on Truck No. GTY-6009. He along

with his brother Balbir Singh and Kamaljit Singh was on his way from Jalandhar towards Kartarpur side in the aforestated truck. When the truck

driven by Jasbir Singh reached near the factory of F.C. Sondhi, G.T. Road, Suranusi anothertruck bearing No. PBT-6755 which was being driven

by respondent No. 1 allegedly at a very high speed and in a zig-zag manner came from the opposite side and rammed against the truck driven by

Jasbir Singh, Who received multiple injuries and became unconscious. The other two occupants of the truck also sustained injuries. Jasbir Singh

was rushed to Civil Hospital, Jalandhar, where he succumbed to his injuries.

3. Alleging that the deceased, who was a bachelor, was earning Rs. 2,000 and used to pay Rs. 1,500 per month for the maintenance of the

appellants, this claim petition was filed.

4. Respondent Nos. 1 and 2 filed a joint written statement and contested the claim petition. They took the plea that no accident took place with

truck bearing No. PBT-6755 driven by the first respondent and owned by the second respondent. The Insurance Company filed its separate

written statement and it contested the petition on various grounds.

5. On the basis of the pleadings of the parties, the Tribunal framed the following issues:

(1) Whether the accident took place due to rash and negligent driving of truck No. PBT-6755 on 28.4.1986 by Darshan Lai, respondent No. 1?-

-OPP

(2) To what amount the petitioners are entitled as compensation and from whom?--OPP

(3) Whether the respondent No. 1 was having a valid licence?--OPR-1

(4) Relief.

6. Under Issue No. 1, the Tribunal held that truck No. PUT 6755 which was being driven by respondent No. 1 in a rash and negligent manner,

caused the fatal accident. The Tribunal also took notice of the fact that the tint respondent was feeing trial in a case u/s 304A, IPC registered

against him on the basis of same occurrence. While deciding Issue No. 2, the Tribunal held that the deceased (Jasbir Singh) was earning about Rs.

1,200 per month and he was a bachelor, The Tribunal assessed the annual loss of dependency to be Rs. 10,800 and applying the multiplier of 10,

it awarded a total compensation of Rs. 1,08,000 to the appellants.

7. The Tribunal further took notice of the fact that at the time of accident, appellant No. 1 was 60 years whereas appellant No. 2 was 50-52 years

old. The Tribunal held that out of the total compensation amount, a sum of Rs. 50,000 be paid to appellant No. 1 whereas the remaining amount to

appellant No. 2. It may be mentioned here that no appeal/cross-objections have been preferred by the respondents questioning the finding of the

Tribunal under Issue No. 1.

8. After going through the impugned award as well as records of the case and in view of the fact that the findings under Issue No. 1 have remained

unchallenged, the only issue which requires consideration by this Court is as to whether or not the Tribunal has correctly assessed the

compensation payable to the appellants.

9. So far as the monthly income of the deceased is concerned, though, the appellants have asserted that he was earning Rs. 2,000 per month,

however, no records in relation thereto have been produced. The owner of the truck or his authorised agent have not entered the witness box nor

the account books, etc. have been produced to substantiate assertion regarding monthly income of the deceased. In such circumstances, the

Tribunal was required to undertake the said exercise at its own. Consequently, the Tribunal''s assessment that the deceased must have been

earning Rs. 1,200 per month, does not call for any interference. Similarly, the Tribunal''s view that the deceased was a bachelor and might have

been contributing Rs. 900 forthe maintenance of his parents appears to be just and reasonable, which too does not warrant any interference by this

Court.

10. However, the Tribunal appears to have gone wrong in applying a multiplier of 10 only. It has gone unrebutted that at the time of his death, the

deceased was 27 years of age and his parents were 60 and 52 years old respectively. Though the ""Second Schedule"" appended with the Motor

Vehicles Act, 1988 has been incorporaed by Act No. 54 of 1994 prospectively w.e.f. 14.11.1994, however, it can be taken as a guideline even in

respect of the cases where the accident had taken place prior thereto. That apart, based upon the average longevity of life, the expected remainder

of life span of the parents of the deceased also ought to have been kept in view. Having regard to all the attending circumstances, I am of the

considered view that the Tribunal ought to have applied the multiplier of atleast 15 instead of 10.

11. The view taken above is fortified by a judgment of the Supreme Court In the case of Kaderkunju and Another Vs. Maheswaran Pada Nair

and Others, , wherein the parents aged 47-45 yean of the deceased who was 17 yean of age, were awarded compensation by applying multiplier

of 16. In the case of General Manager, Kerala State Road Transport Corporation, Trivandrum Vs. Mrs. Susamma Thomas and others, . Their

Lordships of the Supreme Court applied a multiplier of 12 as the deceased was 39 yean of age.

12. Consequently and for the reasons aforestated, this appeal Is partly allowed, The award dated 23rd July, 1987 passed by the Motor Accident

Claims Tribunal, Jalandhar is modified to the extent that the appellants are held entitled to a compensation of Rs. 1,62,000 (10800 Ã¯Â¿Â½ 15 =

1,62,000). It is further directed that the enhanced amount of compensation shall be equally shared by the appellants, who shall also be entitled to

interest @ 6% per annum on the enhanced amount of compensation from the date of filing of the claim petition till its actual realisation.