

(1998) 07 P&H CK 0184

High Court Of Punjab And Haryana At Chandigarh

Case No: First Appeal from Order No. 1001 of 1993 and Civil Miscellaneous No. 4492-CII of 1993

Inderpreet Kaur

APPELLANT

Vs

Bhagat Singh

RESPONDENT

Date of Decision: July 14, 1998

Citation: (1998) 2 CurLJ 454 : (1998) 4 RCR(Civil) 57

Hon'ble Judges: G.C.Garg, J

Advocate: Mr. M.P. Gupta, Advocate, Mr. Chetan Mittal, Advocate., Advocates for appearing Parties

Judgement

G.C. Garg, J.

Surinder Kaur who was working as a Pharmacist in Rajindra Hospital, Patiala, died in a motor vehicle accident near Sewa Singh Thikriwala Chowk, the Mall, Patiala on 20.6.1990 at 10.15 a.m. She was going on a Moped bearing registration No. PCP 1341 from Rajindra Hospital towards Fountain Chowk. The moped was owned and driven by Rajinder Kaur wife of Jarnail Singh. It was hit by four wheeler bearing registration No. PB11A 7615 driven by Inderjit Singh rashly and negligently. Claimants are the minor son and a minor daughter besides her husband. They filed a claim petition under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of Surinder Kaur.

2. The Motor Accident Claims Tribunal, Patiala, came to the conclusion that Inderjit Singh was driving the offending vehicle on 20.6.1990 at 10.15 a.m. in a rash and negligent manner. The Tribunal after considering the matter granted a sum of Rs. 1,75,560/ with interest at the rate of 12% to the claimants.

3. The only dispute in this appeal at the instance of the claimants is as to what amount they are entitled to on account of compensation. The claimants have also moved a civil misc. application under Order 41 Rule 27 of the Code of Civil Procedure for additional evidence to produce on record the Matriculation certificate and entries from the service record of the deceased Surinder Kaur to show that the

deceased was aged 38 years at the time of accident and not 48/50 years as concluded by the learned Tribunal.

4. After hearing learned counsel for the parties I find that the deceased was working as a Pharmacist in Rajindra Hospital, Patiala, at the time of her death. AW1 Rajinder Kaur did not mention the age of the deceased. AW2 admitted that the age of the deceased had not been given in the record produced by him. However, in the postmortem report the Doctor gave the age of the deceased as 36 years. In the claim petition also the age of the deceased was mentioned as 36 years. No other record was produced namely the Matriculation certificate or the service record to show as to what was the age of the deceased at the time of accident. The learned Tribunal after going through the statement of Raghbir Singh AW3 and keeping in view the ages of the children of the deceased came to the conclusion that at the time of her marriage she must be 28 years of age and thus was about 48/50 years of age at the time of the accident. The learned Tribunal after taking her age to be 48/50 years applied a multiplier of 11 and granted compensation. The documents now placed on record in the form of Matriculation certificate and the service record of the deceased, which documents have not been controverted by the respondents clearly go to show that the deceased Surinder Kaur was born on 13.7.1952 and was working as a Pharmacist in Rajindra Hospital, Patiala and this is also the date of birth recorded in the service record. According to the date of birth recorded in these documents, which have been placed on record as Annexures A1 and A2, the age of the deceased at the time of accident comes to 38 years. The doctor who conducted the postmortem recorded the age of the deceased as 36 years, which date is in consonance with the date in the service record of the deceased. There is no other material on record to come to a conclusion that the deceased was aged 48/50 years at the time of her death. The learned Tribunal, as already noticed, only came to the conclusion that the deceased was aged 48/50 years by taking the circumstances into consideration and did not come to this conclusion on the basis of any documentary evidence. I placing reliance on the Matriculation certificate and the service record of the deceased hold that the deceased at the time of accident was aged 38 years and not 48/50 years as concluded by the Tribunal. The finding of the Tribunal to that extent is reversed.

5. The learned Tribunal after taking note of the contents of Annexure A2 produced by Sukhdev Kumar, the Accounts Clerk came to the conclusion that the deceased was earning Rs. 2484/- per month at the time of her death. The Tribunal thereafter noticed that she was spending a sum of Rs. 300/- per month on the moped and must also be giving another sum of Rs. 150/- to the washerman, who was admittedly employed by her. The Tribunal thus after deducting a sum of Rs. 484/- came to the conclusion that the monthly income of the deceased was Rs. 2,000/-. The learned Tribunal after applying a cut of 1/3rd determined dependency at Rs. 1330/- per month. He, as already observed, applied the multiplier of 11 and awarded the compensation in the sum of Rs. 1,75,560/-.

6. On a consideration of the matter, I am of the opinion that the learned Tribunal has not worked out the dependency in a proper manner. The tribunal has deducted a sum of Rs. 484/ on account of expenses incurred on the moped and the washerman and on the balance applied a cut of 1/3rd on personal expenses. This in my opinion was not permissible. Concededly the deceased was drawing a salary of Rs. 2484/ per month at the time of her death and can safely be concluded that she must be contributing a sum of Rs. 1500/ p.m. to the family and which in other words come to Rs. 18,000/ per annum. I have earlier concluded that at the time of death Surinder Kaur was aged only 38 years and not 48/50 years. Thus the multiplier applicable in this case would be atleast 14 and not 11 has been done by the Tribunal. By applying this multiplier the claimants are entitled to a sum of Rs. 18,000 x 14 = 2,52,000/ on account of compensation for the death of Surinder Kaur. I accordingly grant this compensation to the claimants while partly allowing the appeal.

7. As a result of the above discussion this appeal is partly allowed and the claimants are held entitled to a sum of Rs. 2,52,000/ besides interest at the rate of 12% per annum from the date of the application till the date of payment, minus the amount already received by them under the Award dated 2.11.1992. The responsibility to pay the amount of compensation shall be that of the respondents jointly and severally. No costs.