(2001) 3 RCR(Civil) 678

High Court Of Punjab And Haryana At Chandigarh

Case No: First Appeal from Order No. 138 of 1986

Darshan Singh	APPELLANT
Vs	
Faqiria	RESPONDENT

Date of Decision: Feb. 20, 2001

Acts Referred:

- Motor Vehicles Act, 1988 - Section 166

Citation: (2001) 3 RCR(Civil) 678

Hon'ble Judges: V.S. Aggarwal, J

Bench: Single Bench

Advocate: Mr. K.S. Sidhu, for the Appellant; Mr. Varinder Pal Singh, for the Respondent

Judgement

V.S. Aggarwal, J.

This is an appeal filed by Darshan Singh and another, hereinafter described as the "appellants", directed against the award of the Motor Accident Claims Tribunal Patiala, dated 26.10.1985. The Learned Tribunal had awarded Rs. 25,000/- as compensation to the appellants with interest at the rate of 12% per annum from the date of the petition till realisation. Out of the realised amount Rs. 15,000/- was to be given to the mother and Rs. 10,000/- to the father of the deceased. During the pendency of the appeal, Darshan Singh was stated to have since expired.

2. The relevant facts for the purposes of the present appeal are that the deceased was about 17 years of age. He died in the accident on 20.10.1984 near Bus Stand, Kheri Gandian as a result of rash and negligent driving of respondent No. 1 Faqiria, He was driver of Pepsu Road Transport Corporation, respondent No. 2.

3. The short question that comes up for consideration is as to if the compensation awarded is adequate or not ? Therefore, it is unnecessary to go into the controversy if respondent No. I was driving the vehicle in a rash negligent manner.

4. The learned Tribunal had rejected the claim of the appellants that the appellant was earning Rs. 400/- to Rs. 500/- per month. However, relying on the decision of this Court in the case of Jabar Singh v. Prithi Chand and others 1984 P.L.R. 241, the compensation referred to above was awarded.

5. During the course of arguments, it was asserted that the deceased was about 17 years of age and he was earning Rs. 400/- to Rs. 500/- per month. He was stated to be employed in a flour mill and also helping in the agriculture of land. The flour mill was stated to be of one Gurmit Singh. When Gurmit Singh appeared as a witness, he did not whisper even with respect to the employment of the deceased in his flour mill. The reasons are obvious, therefore, what was being claimed was not at all proved.

6. Faced with this situation, it was alleged that the deceased was a young person and the compensation awarded is totally inadequate. The attention of the Court was drawn towards to the decision of the Supreme Court in the case of Kader Kunju and another v. Maheswaran Pada Nair and others, 2000 Accidents Claims Journal 524. In the cited case, the Supreme Court awarded Rs. 2,22,000/- as compensation. It has to remembered that the deceased was a Mechanical Engineering student and, therefore, his future prospects cannot be compared with the present deceased who was the son of the appellant.

7. The compensation necessarily has to be arrived not in a strait jacket formula but keeping in view the totality of the facts and circumstances as well as future prospects of the deceased which can be seen from the nature of the upbringing and chances of success.

8. The attention of the Court was further drawn towards another decision of the Supreme Court in the case of K. Murugesh and others v. M. Palappa and others, 1999 Accidents Claims Journal 961. Herein too, the deceased was a student and compensation of Rs. 1,00,000/- was awarded with interest at the rate of 6 per cent per annum by the Supreme Court. But herein, the accident took place much later and not in 1984 as in the present appeal. The compensation has to be awarded keeping in view the totality of the facts at the relevant time and the price index.

9. The position in the present appeal is that the deceased was simply a student and from the nature of evidence, it appears that to make livelihood, as per appellants, he was to work. Though this fact even was not proved, but what is obvious is that future prospects could not be very good in terms of future earning. He necessarily would get married and the dependency of the appellants cannot be the same as would be if he had remained unmarried. Taking stock of these facts, the compensation awarded can only be Rs. 40,000/- keeping in view that the multiplier of 16 would be appropriate and the annual dependency of the appellants cannot be more than Rs. 2,500/-.

10. For these reasons, the impugned order of the learned Tribunal is modified. The compensation is enhanced to Rs. 40,000/- with interest at the rate of 12% per annum which shall be calculated from the date of filing of the petition, on the balance amount if the earlier amount has already been paid, till realization.

11. Order accordingly.