

(2001) 01 P&H CK 0211

High Court Of Punjab And Haryana At Chandigarh**Case No:** First Appeal From Order No. 321 of 1986

Haryana State

APPELLANT

Vs

Smt. Parbati Devi

RESPONDENT

Date of Decision: Jan. 4, 2001**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 166

Citation: (2001) 3 RCR(Civil) 786**Hon'ble Judges:** V.S. Aggarwal, J**Bench:** Single Bench**Advocate:** Mr. Sultan Singh, AAG, for the Appellant;**Final Decision:** Dismissed

Judgement

V.S. Aggarwal, J.

The present appeal has been preferred by the State of Haryana and the General Manager, Haryana Roadways, Faridabad, directed against the award of the Motor Accident Claims Tribunal, Karnal dated 16.12.1985. The learned Tribunal had awarded compensation to the respondents Smt. Parbati Devi and others who are the claims, of Rs. 1,93,000/- to be distributed amongst the claimants with interest at the rate of 10 per cent from the date of the petition till final realisation.

2. The relevant facts are that as per the claimants, on 28.6.1985 Radhey Shyam was going from Panipat to Ghanaur, He was driving a motorcycle. His cousin brother Kishan was sitting on the pillion of the motorcycle. When the motor-cycle reached near the Haryana State Electricity Board Power House situated on G.T. Road, Samalkha and was on the left side of the road at a moderate speed, at that time Bus No. HRW-4509 driven by respondent No, 5 Bharat Lal came from Delhi and it was being driven in a rash and negligent manner,

3. It collided with the motor-cycle. Radhey Shyam and Kishan fell down and the bus dragged them at some distance. Radhey Shyam was sent to Civil Hospital, Panipat

from where he was sent to Medical College, Rohtak. As a result of injuries sustained by him he died. Radhey Shyam was 29 years of age and was doing jewellery business at Ghanaur. He was stated to be earning Rs. 1500/- P.M. from that business. The claimants were his mother, widow and children.

4. The petition as such was contested. It was stated that it was the motor- cyclist who was guilty of driving the motor-cycle in a rash and negligent manner without light and unmindful of traffic rules. The factum of the accident was not disputed. It was denied that compensation claimed, can as such be awarded. Almost identical was the reply of the appellants.

5. After recording of the evidence, the learned Tribunal awarded the compensation referred to above. Aggrieved by the same, F.A.O. No. 321 of 1986 has been filed.

6. Arising out of the same accident, another claim petition had been preferred by Sita Ram, Chameli parents of Krishan Dutt and Sukhbir his brother. The facts are the same. It was stated that Krishan Dutt was running a shop at village Kheri Naru from where he was earning Rs. 800/- P.M. The learned Tribunal awarded a sum of Rs. 96,000/- by way of compensation To the parents of Krishan Dutt to be shared equally with interest at the rate of 8% per annum from the date of the petition till realisation. Aggrieved by the same, F.A.O. No. 320 of 1986 has been preferred.

7. By this common judgment, both the appeals can conveniently be disposed to together.

8. The first and fore-most question that was agitated is that as to if the bus was being driven in a rash and negligent manner or not ? Laxmi Narain PW-2 categorically stated that it was rash and negligent act of the bus driver due to which the accident took place. Furthermore it transpired in evidence that bus did not stop and it stopped after covering some distance. It is a clear pointer that it was being driven at a fast speed. There is another way of looking at the matter. The bus was coming from the Delhi side. The accident took place which is on the extreme right side as one comes from Delhi to Samalkha. If the bus had not gone on its extreme wrong side, the accident would not have taken place. It dragged the motor-cycle at a good distance. In these circumstances, there is no ground to disbelieve the eye witness. Thus, it was rightly held that it was the driver of the bus who was driving the vehicle in a rash and negligent manner.

9. In that event, it had been urged that the compensation awarded is excessive. So far as Radhey Shyam is concerned, it was alleged that he was earning Rs. 1500/- P.M. being a jeweller. He was having good health and not only that it was a normal income which an able-bodied person could earn, 1/3rd could be taken as personal expenses and 1/3rd as the amount of maintenance for the respondents-claimants. A multiplier of 16 was applied. The same is reasonable keeping in view the age of the deceased, Rs. 1,000/- was awarded for the funeral expenses. The said amount is also reasonable. There is no scope for interference.

10. As regards the connected appeal, the deceased was earning Rs. 800/- P.M. The dependency of the respondents in the said appeal has been taken and rightly so at Rs. 500/- P.M. The multiplier of 16 was applied keeping in view the young age of Krishan Dutt, The compensation of Rs. 96,000/- had been awarded. The compensation awarded is not excessive but is reasonable.

Consequently, the appeals must be held to be without any merit and are dismissed leaving the parties to bear their own costs.

11. Appeals dismissed.