

(2001) 03 P&H CK 0175

High Court Of Punjab And Haryana At Chandigarh

Case No: First Appeal from Order No. 962 of 1996 and Cross Objections No. 46-II of 1996

The New India Assurance Co.
Ltd.

APPELLANT

Vs

Labh Kaur

RESPONDENT

Date of Decision: March 5, 2001

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 16 Rule 19
- Motor Vehicles Act, 1988 - Section 166, 173

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

Bench: Single Bench

Advocate: Y.K. Sharma, for the Appellant; Jagdev Sharma, for the Respondent

Judgement

V.S. Aggarwal, J.

This is an appeal filed by the New India Assurance Company Limited, hereinafter described as "the appellant", directed against the award of the Motor Accident Claims Tribunal, Ambala, dated 29-11-1995. By virtue of the impugned award, he learned Tribunal had awarded compensation of Rs. 2,30,000/- to the claimants with interest at the rate of 12% per annum from the date of filing of the petition till final realisation.

2. The facts alleged by the claimants Labh Kaur and others are that on 6-10-1992 at about 8.00 p.m. Nachhater Singh, husband of Smt. Labh Kaur, was coming from village Mastpur after completing his work in the field. He was accompanied by Jarnail Singh. When they were on the outskirts of the village, one Amarjit met them. They were standing on the earthen berm of the road running from Matheri Sheikhan to village Kalaur. In the meantime, truck bearing registration No. HNA-6195 driven by Baldev Singh in a rash and negligent manner came from the side of village Matheri Sheikhan. He did not blow any horn, and over ran Nachhattar Singh. Nachhattar Singh received multiple injuries and later on succumbed to his

injuries in the Mission Hospital, Ambala. The deceased was 40 years of age at the time of accident, It was alleged that he was having six acres of land and used to earn Rs. 10,000/-per month from the truck and Rs. 5000/- per month from agriculture.

3. The petition as such was contested and so far as appellant is concerned, liability to pay compensation was denied and it was asserted further that the truck was not being driven by a person having a valid driving licence.

4. The learned Tribunal held that the truck was being driven in a rash and negligent manner and further concluded that the insurance company, appellant, was liable to pay the compensation. It was taken note of that after the death of Nachhatar Singh, the claimants had employed a driver at a salary of Rs. 1500/- per month or Rs. 18,000/- per annum. Taking stock of the said fact, compensation of Rs. 2,30,000/- was awarded and multiplier of 10 had been applied. Rs. 5000/- was awarded per year for the loss of Nachhatar Singh to the members of the family.

5. Aggrieved by the same, present appeal has been filed by the appellants while the claimants preferred cross-objections.

6. So far as cross-objections are concerned, the main grievance was that multiplier of 10 was on the lower side. It was asserted that multiplier of 20 should have been applied. In this regard, the contention has to be stated to be rejected. The facts and circumstances of each case have to be taken note of before applying the multiplier. The deceased was about 40 years of age at the time of his death. Keeping in view his age and there being no other circumstance to permit a higher multiplier, there is no ground to interfere. The cross-objections filed by the claimants are dismissed.

7. As regards the appeal filed by the insurance company is concerned, it was only asserted that no proper opportunity was given to examine the witness from Ranchi to show that Baldev Singh was not holding a valid licence. A perusal of the record shows that opportunity was given. Since the witness was at Ranchi, he could not be summoned. The appellant did not deposit the necessary fee towards the expenses of the counsel so that he could record the statement of the witness at Ranchi. Therefore, the appellant itself is to be blamed in this regard.

No other argument was raised.

For these reasons, the appeal being without merit must fail and is accordingly dismissed.

8. Appeal dismissed.