

Chuni Lal and another Vs Swaran Singh and others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 19, 2006

Citation: (2007) 1 PLR 471 : (2006) 4 RCR(Civil) 558

Hon'ble Judges: Uma Nath Singh, J

Advocate: Mr. Jaswant Jain and Mr. N.K. Sanghi, Advocates, Mr. R.C. Gupta, Advocate., Advocates for appearing Parties

Judgement

Uma Nath Singh, J. (Oral)

1. This FAO by the claimants arises out of an award dated 21.5.1991 passed by learned Presiding Officer, Motor Accident Claims Tribunal,

Narnaul, in MACT Case No. 2 of 1991, awarding a sum of Rs. 38,400/ with an interest @ 12% per annum, in a death case of a young boy of 18

years.

2. It appears that the accident took place on 29.11.1990 in Village Nangal Sarohi at about 2.30 p.m., when the bicycle of deceased Shiv Singh

was struck against by a truck (No. PAT8738). At that time, deceased Shiv Singh being accompanied by one Kulwant Singh was coming on a

bicycle to their village Kherki, after attending their school. Kulwant Singh was pedalling the bicycle, whereas deceased Shiv Singh was sitting on its

front bar. They were on the correct side of the road when the offending vehicle appeared from Narnaul side, being driven in rash and negligent

manner. The offending vehicle was coming in zig zag manner and even the driver did not blow the horn. To avoid the accident, Kulwant Singh

brought his bicycle to the extreme left but even then the offending vehicle hit the bicycle. As a result, Shiv Singh received fatal injuries and Kulwant

Singh, an injury on his right leg. The accident was noticed by one Sunder Singh and injured Kulwant Singh. The matter was reported to the police

at 4.20 p.m. the same day. The deceased succumbed to the injuries and his postmortem was conducted on 30.11.1990. The claimants laid claim

to the tune of Rs. 2,00,000/. The Tribunal framed two issues, namely, as to whether the death of deceased Shiv Singh and injuries to Kulwant

Singh occurred as a result of rash and negligent driving of the offending vehicle, and as to quantum of compensation the claimants were entitled to

receive. On the basis of the testimonies of the witnesses so also the FIR and the postmortem report, the Tribunal held that the offending vehicle

was being driven rashly and negligently. However, contrary to the claim of the father of the deceased, Chuni Lal (PW5), that the deceased was

earning Rs. 1,000/ to Rs. 1,500/ per month by selling milk after school hours and that he was studying in Class XI, the Tribunal has only assessed

the monetary help/contribution of the deceased to the extent of Rs. 800/ per month. Moreover, while considering the future prospect of the

marriage of the deceased, the Tribunal has assessed the contribution of the deceased to the family only to the extent of Rs. 200/ per month and,

thus, the annual dependency has been assessed to Rs. 2,400/. After taking into account the various circumstances, the Tribunal has applied the

multiplier of 16 and so has worked out the compensation amount to Rs. 38,400/. Learned counsel for the appellants while referring to a judgment

of Hon"ble the Apex Court, reported in Manju Devi and another v. Musafir Paswan and another, 2005 ACJ 99, urged that in a case where the

death of a 13 years old boy had taken place, the Hon"ble Court assessed the dependency amount at Rs. 15,000/ per annum and in total an

amount of Rs. 2,25,000/ was awarded. Learned counsel also submitted that in the cross-examination of the father of the deceased, nothing has

been asked about the income from selling the milk. On the other hand, learned counsel for the Insurance Company submitted that in such cases

only the services of the child should be considered for assessing his contribution to the family. Further, in his absence, the family could have

continued with the business of milk vending, in case they really had any such business.

3. On due consideration of rival submissions, I notice that the compensation amount is on the lower side. The deceased was aged only 18 years. In its

judgment reported in Lata Wadhwa and others v. State of Bihar and others, 2001(4) RCR(Civil) 673 : 2001 ACJ 1735, Hon"ble the Apex Court

in a case where the students of Classes VI to X died in a fire accident has held that contribution assessed would be Rs. 24,000/ per annum, and by

adopting the multiplier of 15, award a sum of Rs. 3,60,000/ (plus conventional amount of Rs. 50,000/ each child). In another case, namely, Shanti

Bai and others v. Charan Singh and others, 1998(4) RCR(Civil) 383 : 1998(5) SCC 399, in a case of death of 18 years old boy, Hon"ble Apex

Court awarded a lump sum amount of Rs. 1,50,000/.

4. Thus, taking into account the ratio of the judgments, referred to hereinabove in the factual background of this case, I deem it expedient to assess

the earning of the deceased as a labourer at Rs. 25,000/ per month. As he was unmarried and was having two elder brothers working for the

parents, he would be spending half of the amount on himself and for the same reason, the multiplier to be adopted would be 13. Thus, the

dependency would come to Rs. 1,95,000/. That apart, the claimants would be entitled to get Rs. 10,000/ towards funeral expenses. Thus, in total,

the claimants would be entitled to get Rs. 2,05,000/. The amount shall carry the interest @ 6% per annum from the date of application.

Accordingly, the compensation amount of Rs. 38,400/ is enhanced to Rs. 2,05,000/ with the interest @ 6% per annum from the date of

application.

Hence, this FAO No. 1118 of 1991, is hereby, allowed in terms of the aforesaid directions.