(2014) 07 P&H CK 0736

High Court Of Punjab And Haryana At Chandigarh

Case No: FAO Nos. 1116 and 1118 of 1994

Chawli	APPELLANT
Vs	
Surender Singh Surinder Singh Vs Chawli	RESPONDENT

Date of Decision: July 11, 2014

Acts Referred:

- Hindu Succession Act, 1956 - Section 8

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Advocate: S.D. Bansal, Advocate for the Appellant; Anju Arora, Advocate for the Respondent

Judgement

K. Kannan, J.

The appeal in FAO No. 1116 of 1994 is at the instance of a person claiming to be a legal representative of the deceased-Ganeshi Ram. The compensation was assessed for death of a person said to be aged 60 years at the time of accident in the year 1989. He was said to have been hit by a scooter and the appellant who was a doctor stated that he saw an old man on the road and took him to the hospital and gave treatment. He was falsely implicated. The tribunal rejected this contention and held the appellant-scooterist to be responsible for the accident. I will find no reason to reverse the finding although a passionate contention was made that the old man died on his own by falling on the road without being run over by the scooter. An ordinary fall in the road could not have resulted in death. I affirm the finding that it was the scooterist who caused the death. As regards the age of the deceased the contention was that he was not 60 years as contended. During the pendency of appeal the widow has died. An application for impleadment is filed in CM No. 13803-CII of 2001 at the instance of one Geeta Devi. She claimed as an adopted daughter of the deceased. The adoption deed filed in Court has referred to the age of the deceased as 65 years. Since the accident took place in the year 1989 the contention that he was 60 years could not be true. I take it that he should have been 77

years at the time of his death. This document cannot secure to Geeta Devi the status of adopted daughter. Hindu Adoption and Maintenance Act sets out amongst other conditions the adopted child to be less than 15 years, unless there is any specific custom in the community that allows for adoption beyond the said age. There is not even a whisper about any custom. I cannot therefore accord to her the status of adopted daughter.

2. The appeal FAO No. 1118 of 1994 had been filed by the widow dissatisfied with the assessment of compensation at Rs. 25,000/-. Considering the fact that the deceased was aged 77 years and the accident took place in the year 1989 I will make an increase of the compensation at Rs. 75,000/- viz., and additional Rs. 50,000/- as the loss which had occasioned to her. This shall substitute the amount which was already awarded and this amount shall be deposited by the appellant within a period of four weeks in full quit of all claims. If the amount is not deposited, the said sum in excess viz. Rs. 50,000/- shall be liable to be paid with interest at 7.5% from the date of petition till the date of deposit. The tribunal may call for proof of representative status of Smt. Geeta Devi and cite also any heir of the deceased as per Section 8 of the Hindu Succession Act as a respondent to enable such a person to claim the amount of what is assessed now. If there is no objection coming from any one of the legal heirs under the Act or if there is no other person who is still alive the amount shall be paid to Geeta Devi. The amount shall be released after such an adjudication as directed by this Court.

3. The appeal FAO No. 1118 for enhancement of compensation is allowed.

4. FAO No. 1116 of 1994 is dismissed.