

(2003) 02 P&H CK 0143

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From Order No. 392 of 1985

Ajmer Singh

APPELLANT

Vs

Pepsu Road Transport Corporation and others

RESPONDENT

Date of Decision : 10-02-2003

Acts Referred:

Citation : (2004) 1 CurLJ 334 : (2004) 1 LJR 720 : (2003) 3 RCR(Civil) 836

Hon'ble Judges : H.S.Bedi, J

Advocate : Mr. Vijey Pal Singh, Advocate.None for Respondent, Advocates for appearing Parties

Judgement

H.S. Bedi, J.

1. This appeal arises out of the following facts :

Ranjit Singh son of the claimant, who was driving scooter No. PUK 8726, was killed in an accident with a bus belonging to respondent No. 1 and driven by respondent No. 3. The claimant filed a claim petition seeking compensation, under Section 110A of the Motor Vehicles Act. The respondents filed their reply to the claim petition and took various pleas. On the pleadings of the parties, the following issues were framed :

"1. Whether the death of Ranjit Singh was caused due to the rash and negligent driving of bus No. PUC3337 by Piara Singh respondent No. 3? OPA

2. To what amount of compensation, if any, the claimant is entitled and against whom ? OPA

3. Whether the claim petition is within time ? OPA

4. Relief.

2. Under Issue No. 1, the Tribunal held that the accident had not taken place due to the rash and negligent driving of the bus driver and it seems to have happened because Ranjit Singh had come on the road all of a sudden giving no

time to the bus driver to stop the bus. On issue No. 2, the Tribunal opined that as there was no evidence to show that Ranjit Singh was dealing with the sale of milk, his income could not be more than Rs. 300/ per month and after deducting 1/3 as his personal expenses, the annual dependency of the claimant on the deceased was calculated at Rs. 2400/ and by applying a multiplier of 5, assessed the compensation payable to the claimant at Rs. 12,000/ in all. However, in view of the finding of the Tribunal on issue No. 1, nothing was in fact held to be payable to the claimant.

3. It is against the award of the Tribunal dated 12.11.1991, the present appeal has been filed by the claimant.

4. It has been argued by Mr. Vijay Pal Singh, the learned counsel for the appellant, that it had come in the evidence that after the impact, the scooter had been dragged by the bus to a distance of 3035 karams, which clearly proved that the bus was being driven negligently and at a very high speed. He has also urged that a bare reading of the claim petition would reveal that complete particulars as to the manner of the accident had been mentioned in the claim petition and as such the finding of the Tribunal recorded in para 11 of its award, was erroneous.

5. The record has been perused. The respondents have been served but no one has put in appearance on their behalf. The accident had happened in the year 1982 and it would be inappropriate to delay the matter any further. The appeal is accordingly being dealt with on merits.

6. It does appear from the record that the bus had dragged the scooter to 3035 karams after the impact. The distance of 3035 karams would mean 150 175 feet. The evidence that the scooter had been dragged to this distance has been accepted by the Tribunal as well. To hold, therefore, that the claimant was not entitled to any compensation as full particulars as to the manner of the accident had not been given in the claim petition, was not correct, as such details had in fact been given. The finding of the Tribunal that the accident had not happened on account of the rash and negligent driving of the bus driver, is accordingly reversed.

7. The Tribunal has also held that the monthly income of the deceased was Rs. 300/ as that would have been the wages of an agricultural labourer. To my mind, this amount is on the lower side as I feel that the income of the deceased would have been Rs. 500/ per month, i.e. Rs. 6,000/ per annum. After deducting 1/3 as the personal expenses of the deceased, the annual dependency of the appellant on the deceased would thus come to Rs. 4000/. By applying a multiplier of 5 as has been applied by the Tribunal, the total compensation to which the appellant would be entitled would, come to Rs. 20,000/. The appellant would also be entitled to interest on the above amount at the rate of 12% per annum from the date of filing the claim petition till the realisation of the same.

The appeal stands allowed in the above terms.