
(1998) 07 P&H CK 0001
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 1278 of 1997

Amarjit Kaur

APPELLANT

Vs

Doraj @ Gopal Parshad

RESPONDENT

Date of Decision : 20-07-1998

Acts Referred:

Citation : (1998) 4 RCR(Civil) 268

Hon'ble Judges : G.C.Garg, J

Advocate : Mr. V.K. Kapoor, Advocate, Mr. Ashit Malik, Advocate., Advocates for appearing Parties

Judgement

G.C. Garg, J.—Santokh Singh and four others hired truck No. PAT 1742 owned by Majha Goods Carrier, Amritsar for transporting their animals from Amritsar to Delhi. They started journey along with the animals on 22.6.1993 and when they reached near Gharaunda, truck No. CHW 3247 driven rashly and negligently by respondent Doraj alias Gopal Parshad collided with truck No. PAT 1742 owned by M/s. Khandelwal Goods Transport Company and in the accident, Santokh Singh and one other lost their life whereas some other persons sustained multiple injuries. The widow and three minor children of Santokh Singh filed a claim petition under section 166 of the Motor Vehicles Act claiming compensation for the death of Santokh Singh. The petition was filed against the driver of truck No. CHW 3247 and its owner M/s Khadelwal Goods Transport Company, the owner of truck No. PAT 1742 and the United Insurance Company.

2. Learned Motor Accidents Claims Tribunal disposed of the claim petition of the appellants and the petitions filed by others by passing a single order dated 31.1.1997. In the case of the present claimants, learned Tribunal awarded a total sum of Rs. 2,68,000/ as compensation for the death of Santokh Singh. Respondents 1 to 3 were held liable to pay compensation jointly and severally to the extent of 50% whereas respondent No. 4 was hold liable to pay compensation to the extent of remaining 50%.

3. Learned counsel for the appellants only submitted that learned Tribunal was

not justified in fastening the liability to pay 50 per cent of the amount of compensation jointly and severally of respondents 1 to 3 only and the liability to pay the amount of compensation ought to have been held jointly and severally of all the respondents. In support of his submission, learned counsel relied upon a Division Bench judgment of this Court in *Narinderpal Singh v. Punjab State through Secretary Transport, Punjab Government, Chandigarh and others*, 1989 ACJ 708 wherein the Division Bench came to the conclusion that *Mukhtiar Singh v. Krishna Gulati*'s case, 1987 ACJ 1961 was correctly decided and the learned Judge was right in apportioning the compensation between the two joint fortfeasors by holding that their liability would be joint and several so far as the claimant is concerned. Another judgment relied by the learned counsel in *New India Assurance Co. Ltd. v. Swaran Kanta and others*, 1997(3) R.C.R.(Civil) 591 : 1997 A.C.J. 1347 is also to be same effect.

4. After hearing learned counsel for the parties and perusing the judgment noticed above, I am of the opinion that the contention of the learned counsel has merit. Learned counsel for the Insurance Company could not bring to my notice any judgment taking a view contrary to the above. In this view of the matter, following the judgments in the above referred cases, I accept the appeal and modify the award of the learned Tribunal, in so far as it relates to the present appellants, to the effect that the respondent shall be liable to pay the amount of compensation to the extent it was ordered by the Tribunal under the impugned award, jointly and severally. In other words, the appellants shall be entitled to recover the amount of compensation from all or any of the respondents and it will be open to the Insurance Co. to recover the amount paid beyond its liability, from the owner/owners of the other vehicle. Since no other point was raised in this appeal, the award of the learned Tribunal in all other respects is maintained. No costs.