
(2014) 05 P&H CK 0289

In the Punjab And Haryana At Chandigarh

Case No : FAO Nos. 1560, 1561 and 1562 of 1997

Amita Abrol

APPELLANT

Vs

Sham Sunder and Others

RESPONDENT

Date of Decision : 27-05-2014

Acts Referred:

Citation : (2014) 05 P&H CK 0289

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Neeraj Khanna, Advocate for the Appellant; S.S. Sidhu, Advocate for Respondent No. 3 and Mr. Ashwani Talwar, Advocate for the Respondent

Judgement

K. Kannan, J.—All the three claim petitions arose out of the same accident resulting in death of a passenger in a car and injuries to two persons. The owner an driver of the car and the insurer of the car that was insured comprehensively were made parties. The accident was a collision with the stationary truck and the evidence was that it was a rainy day and the driver did not properly see a parked vehicle and dashed at the rear side of the stationary truck. I will find this to be an instance of res ipsa loquitur that should lead to an inference of the negligent driving of the driver of the truck. Since the vehicle had been comprehensively insured, it must be taken that the coverage of risk was available also for gratuitous passengers.

2. The claimants in FAO No. 1560 of 1997 was a person that had been admitted in the hospital for three days nursing a lacerated injury on the eye brows above both her eyes. For a three days hospitalization and for two injuries which were treated as simple injuries, I will assess a compensation of Rs. 1500/- each and grant Rs. 3000/- as compensation. As regards the claimant in FAO No. 1561 of 1997, he had incised injury on his cheek and an incised injury on the eye brow and complain of pain in the shoulder. With three injuries, he had been in the hospital for five days for three injuries and hospitalization, I will provide for Rs. 4500/- as the component of pain and suffering. I will also add Rs. 500/- for

attendant charges, special diet and transportation in all these cases.

3. The amount of compensation shall, therefore, be for FAO Nos. 1560 and 1561 of 1997 Rs. 3500/- and Rs. 5000/- respectively.

4. The appeal FAO No. 1562 of 1997 was a case of death of a male aged 31 years. He was said to be working in Sethi Enterprise earning Rs. 6000/- as salary. A salary certificate produced by the claimants was urged by the respondent as not having been properly proved by examining any person who issued the certificate. He was also said to be dealing in shares in sale and purchase of shares and earning Rs. 4000/-. The income tax returns filed was a return subsequent to his death and therefore, the Tribunal did not give any credence to the same. The quality of evidence I must say was not good but a young man that had married and had two children and who was at the time of accident going in a car, I will accord to him some social and economic status and assume the income to Rs. 4000/-. Over a period, he would have also improved his own economic position that I believe that an average income could be taken as Rs. 6000/- and I will allow for a 1/3rd deduction and take Rs. 4000/- as the monthly contribution. I proceed to assess a compensation on the basis providing for a multiplier of 16 and providing also for reasonable compensation for loss of consortium and loss of love and affection. The various heads of claim are tabulated as under:-

5. There shall be a compensation of Rs. 9,75,500/-. The same shall be distributed equally amongst the claimants. The liability shall be on the insurer of the car namely the New India Assurance Company Limited. All the awards will also attract interest @7.5% from the date of petition till the date of payment.