

(1987) 09 P&H CK 0087
In the Punjab And Haryana At Chandigarh

Arjan Singh and Others

APPELLANT

Vs

Mitter Paul Khanna and Company and Others

RESPONDENT

Date of Decision : 25-09-1987

Acts Referred:

Citation : (1988) 2 ACC 514 : (1989) ACJ 487

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Judgement

J.V. Gupta, J.—This appeal has been filed on behalf of the claimants against the award of the Motor Accidents Claims Tribunal Ludhiana, (hereinafter called the Tribunal) whereby a sum of Rs. 50,500/- with interest at the rate of six per cent per annum was allowed by way of compensation on account of the death of Kuldip Singh.

2. Due to the accident on November 30, 1979 between trucks Nos. PUG-7907 and PUC-7225, Kuldip Singh, aged 20 years, a student of B.A. final, died on December 8, 1979. His parents, Arjun Singh and Shrimati Harbans Kaur, filed the claim petition wherein a sum of Rs. 3,00,000/- was claimed as compensation on account of his death. The claim petition was contested on behalf of the owners of the truck and the insurance company. On trial, the Tribunal found that the accident in which Kuldip Singh had died was caused by the rash and negligent driving of truck No. PUG-7907 driven by Dharam Vir and not on account of any rash and negligent driving of truck No. PUC-7225, driven by Ranjit Singh. As regards the amount of compensation, the learned Tribunal found that the deceased was a source of financial help to his parents to the extent of Rs. 250/- per month as he was helping his father in driving the tractor for which now he had to employ a driver after the death of his son on a monthly salary of Rs. 300/-. According to the Tribunal, Kuldip Singh, deceased, was not a whole time worker and. therefore, he was a source of financial help to his parents to the extent of Rs. 250/- per month only. Consequently, by adopting a multiplier of 16 (sixteen), & sum of Rs. 48,000/- was determined to be the compensation

payable to the claimants. A sum of Rs. 2,500/- was also added on account of the expenses on medical treatment thereto. Thus, a total amount of Rs. 50,500/- was held to be the amount of compensation payable to the claimants. Dissatisfied with the same, the claimants have filed this appeal.

3. The only controversy in this appeal is as to the quantum of compensation payable to the claimants.

4. The learned Counsel for the appellants vehemently contended that the future prospects of the deceased Kuldip Singh have not been taken into consideration by the Tribunal. According to the learned Counsel, he was a bright student. He was a member of the Executive Committee of the Punjab State Students Federation of India, and the Secretary of the Students Union of Modi College, Patiala. Thus, argued the learned Counsel, the annual dependency determined at Rs. 3,000/- was most inadequate on the facts and circumstances of this case. In support of the contention, the learned Counsel relied upon *Mangaldas Mohanlal Patel and Another Vs. Union of India and Another*, *Sunanda Maudgal Vs. Pepsu Road Transport Corporation, Patiala and Another*, *Kuldip Singh Kohli Vs. Gurmail Singh and Others*, and *Satya Wati Pathak Vs. Hari Ram and Others*, .

5. On the other hand, the learned Counsel for the insurance company submitted that the amount determined by the Tribunal is quite adequate and no interference was called for therewith in appeal. In support of the contention, the learned Counsel relied upon *Tehmina P. Jasawalla v. Mahadeo Sttaram Ghadi* 1983 ACJ 666 : *Amini George v. Bhagat Singh* 1985 ACJ 533; *Satish Nath Sharma v. State of Haryana* 1987 1 PLR 282 *Harminder Singh v. Sukhpinder Singh* 1987 ACJ 74 and *Om Prakash Aggarwal v. U.P. State Road Transport Corporation* 1987 ACJ 503 wherein somewhat similar amount was awarded as compensation to the claimants.

6. I have heard the learned Counsel for the parties and have also " gone through the relevant evidence on the record.

7. Arjun Singh, claimant, the father of the deceased Kuldip Singh appeared as AW 2. He stated that in addition to his studies, the deceased used to supervise the cultivation of his land He drove the tractor also to plough the same. He was a member of the Executive Committee of the Punjab State Students Federation of India, and the Secretary of the Students Union of Modi College, Patiala. He further stated that now he had to employ a servant at his farm to look after the cultivation of the land and for driving the tractor. He paid a sum of Rs. 350/- per month as his salary besides food and clothing. According to him, he had also paid a sum of Rs. 2,500/- on his treatment. There was no rebuttal to this evidence. In case of a young boy who is studying in school/college and who is not earning anything, it is difficult to evaluate his future earning capacity and loss to the Claimants. In this behalf the observations made by the Gujarat High Court in *Mangaldas Mohanlal's case (supra)*, are relevant and the first head-note of the said report reads,--

In the case of a young boy who is studying in school and who is not earning anything, it is difficult to evaluate his future earning capacity and loss to the claimants. The Court has to assess the value of the lost dependency. One does not know what might have happened had he not been killed; but the value of the prospect, chance or probability or support can be estimated by taking all significant factors into account. The Court has to do its best to evaluate all the chances large or small, favorable or unfavorable. In evaluating such chance, we have to keep in mind issue or sole issue whether that chance or probability was substantial. If it was substantial, it must be evaluated. If it was a mere probability, it must be ignored. It will often be difficult in a particular case to decide whether the claim is merely speculative or one which is pressed to extinction by the weight of multiplied contingencies, or is substantial. Such question must be left to the Tribunal to decide on broad lines, without regard to legal niceties, but on a consideration of all the facts in proper perspective.

In the instant case, the learned Tribunal has not taken into consideration any other factor except that the deceased was a source of financial help to his parents to the extent of Rs. 250/- per month, as he used to drive the tractor maintained by his father for which now he had to employ a whole-time person who is paid Rs. 350/- per month. As a matter of fact, in this case, it was the extra work which was being done by the deceased apart from his studies. From the testimony of his father, Arjun Singh, it appears that, the deceased was a bright student, extrovert in nature and active in extra-curricular activities of his College. Nothing has been awarded by the Tribunal taking into consideration his future prospects. In these circumstances, in my considered opinion, a. sum of Rs. 20,000/- in addition to the sum already awarded by the Tribunal will be a fair compensation to the parents of the deceased.

8. Consequently, this appeal succeeds and is allowed with costs. The amount of compensation is enhanced from Rs. 50,500/- to Rs. 70,500/-. The claimants will also be entitled to interest at the rate of 12 per cent per annum from the date of the application till realisation. Since according to the copies of the insurance policy, Exhibits Rule 1 and Rule 2, the liability of the insurance company was to the extent of Rs. 1,50,000/-, the insurance company will be liable to pay the amount of compensation to the claimants.