

(1989) 07 P&H CK 0013
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 628 of 1984

Balbir Singh and another

APPELLANT

Vs

Chuhar Singh and others

RESPONDENT

Date of Decision : 28-07-1989

Acts Referred:

Citation : (1989) 07 P&H CK 0013

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Advocate : Rajiv Kataria, for the Appellant; K.S. Sidhu, for the Respondent No. 1, for the Respondent

Final Decision : Allowed

Judgement

S.S. Sodhi,J.—The challenge in appeal here is to the denial of compensation to the parents of Surjit Singh, deceased, who was killed when while travelling in the Pepsu Road Transport Corporation bus PBP-3626 he was killed when it went and hit into a truck going ahead. This happened on the Patiala Samana Road at about 4.15 P.M. on July 21, 1982. It was the finding of the Tribunal that the bus-driver was wholly to blame for the accident. The accident being attributed to his rash and negligent driving No compensation was, however awarded to the claimants as it was held that they did not suffer any pecuniary loss on account of the death of the deceased Surjeet Singh, who was their only child.

2. It is now well-settled that parents do have a legitimate expectation of financial support from their children, particularly in their old age when they are incapable of earning a livelihood for themselves, while their children are in a position to support them. As mentioned earlier, Surjeet Singh deceased, was the only child of his parents. The evidence on record shows that he was about 22 years of age at the time of his death. According to P. W. 2 Dalbir Singh his father, Surjeet Singh was a Matriculate and was working as a Typist in the court at Patiala. This is supported by the statement of P. W. 3--Jagpal Singh, clerk of Mr. N.S. Lekh, Advocate, Patiala. It is pertinent to note, however, that as per the evidence of

these two witnesses, Surjeet Singh deceased, did not own any Typewriter. It was said that he used to hire a Typewriter. Where he hired it from and at what rate, does not find mention. Further, it was said that the deceased used to earn Rs. 30/- to Rs. 40/- per day According to P. W. 3--Jagpal Singh, it was Mr. N.S. Lekh, who used to pay him charges for typing. Mr. N.S. Lekh has not been examined to depose to this effect. There is also no evidence to show that Surjeet Singh had been authorised by any authority to work as a Typist in the courts at Patiala. It will be seen, therefore, that there is no cogent evidence to establish that Surjeet Singh deceased was indeed working as a typist, and earning his livelihood as such in the district courts at Patiala, nor indeed what his income as such was.

3. Be that as it may, it must be born in mind that Surjeet Singh deceased was an able-bodied youngman who had done his Matriculation. He was thus capable of being gainfully employed. It is no doubt true that had he lived, he would, in all likelihood, have got married and raised a family and then also had upon him the financial burden of supporting them. At the same time, the parents too could have looked upon him for some financial support.

4. Turning to the father Balbir Singh, it stands established that he was earning his livelihood by cultivation of land. In his old age, it would clearly not be possible for him to do this work without the help and support of his son.

5. Taking an over-all view, therefore, of the entire circumstances of the Claimants and the deceased, in the context of principles laid down by the Full Bench in Lachhman Singh v. Gurmit Kaur (1979) 81 P.L.R. 1, it would be fair and just to assess the financial loss to the claimants at Rs. 20,000/-. The claimants are accordingly hereby awarded a sum of Rs. 20,000/- as compensation which they shall be entitled to along with interest at the rate of 12 percent, per annum from the date of the application to the date of the payment of the amount awarded.

6. The liability for the amount awarded shall be that of the Pepsu Road Transport Corporation and the driver of the bus.

7. This appeal is accordingly hereby accepted with costs. Counsel's fee Rs. 500/-.