

(1983) 07 P&H CK 0056

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 266 of 1979

Balli Singh

APPELLANT

Vs

Smt. Sushil Singhal and Others

RESPONDENT

Date of Decision : 15-07-1983

Acts Referred:

Motor Vehicles Act, 1939 — Section 16, 2(13)

Citation : (1986) 59 CompCas 882

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

Bench : Single Bench

Advocate : N.K. Kapoor, for the Appellant; S.S. Rathor, for respondents Nos. 1 to 6 and Munishwar Puri and G.S. Bhatia, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Sodhi, J.—The award of the Motor Accidents Claims Tribunal holding the driver and owner of the offending vehicle, a tractor, liable for the payment of the amount awarded but not the insurance company thereof, was sought to be challenged on the wholly untenable premises that a driving licence for a motor car and jeep must be deemed to cover a tractor too.

2. The facts relevant to this matter are that on May 19, 1977, at about 12.30 p.m., Anand Kumar Singhal, deceased, while travelling on a motor cycle PUJ-6030 on Jagmalera-Rania Road met with an accident and died later that day as a result of the injuries suffered by him. It was the finding of the Tribunal that the accident was caused when the trolley of the tractor HRF-1578 hit into the motor cycle of the deceased, when both these vehicles were coming from opposite directions. The tractor was coming at a high speed and the trolley thereof had not been properly tied with the result that it was following the tractor in a zig-zag manner. The trolley protruded from behind the tractor and it hit into the the headlight of the motor cycle being driven by the deceased and it was as a result of this that both Anand Kumar Singhal, the driver of the motor cycle, as also Suresh Kumar, who was sitting on the pillion seat thereof, fell down

unconscious. The accident thus took place due to the rash and negligent driving of Kewal Singh, the driver of the tractor.

3. The claimants were awarded a sum of Rs. 80,000 as compensation as claimed by them. This amount was awarded keeping in view the age of the deceased which was found to be 37 years at the time of his death and his income of Rs. 650 per month. The loss to his dependants was taken to be Rs. 475 per month. Applying a multiple of 16 in the light of the law laid down by the Full Bench of this court in Lachhman Singh and Others Vs. Gurmit Kaur and Others, , the claimants were held entitled to a sum of Rs. 92,200 as compensation, but as the amount claimed was only Rs. 80,000, this was the sum awarded.

4. The evidence on record showed that Kewal Singh, respondent, possessed a valid driving licence only for a motor car and a jeep, but not a tractor and it was on this account that the insurance company was not held liable for the amount awarded. The entire liability thus fell upon the owner and the driver of the tractor.

5. In appeal now, the main effort of the counsel for the appellant was directed to shifting the burden of the liability for the amount awarded upon the insurance company on the plea that the holder of a valid driving licence for a motor car and jeep was also entitled in law to drive a tractor and it could not, therefore, be said that the tractor was being driven by one not possessed of a driving licence so as to absolve the insurance company from liability in this case.

6. The argument of the counsel for the appellant in this behalf was that as both the motor car and a tractor fell within the definition of "light motor vehicle" in Section 2(13) of the Motor Vehicles Act, a licence for either was a licence to drive a light motor vehicle and thus covered the other vehicles too comprised therein. This indeed is a contention wholly devoid of merit. A motor car has been separately and specifically defined in Section 2(16) of the Motor Vehicles Act as excluding a tractor. It would be going clearly against the legislative intent to hold that a licence for a motor car is also to be construed as a licence for a tractor. It is significant to note that what has been defined as a "light motor vehicle" in Section 2(13) of the Motor Vehicles Act is a transport vehicle below a certain weight. There is no suggestion here that the tractor involved in the accident was below this weight. The tractor being an Escort 335 Horse Power tractor which on the face of it is not one covered by the definition "light motor vehicle" as given in the Motor Vehicles Act. The contention raised cannot, therefore, be sustained.

7. A somewhat half-hearted attempt was made to challenge the finding of the Tribunal on the issue of negligence on the plea that at the time of the accident, the tractor was parked at the house of the appellant, Balli Singh and only the trolley thereof with a punctured tyre was parked on the road. It was suggested that in order to make a false case against the owner and driver of the tractor, Kewal Singh, after the accident, the tractor was taken to the spot and put in front of the trolley and then photographs were taken with a view to suggest that the accident had occurred by a collision between the tractor-trolley and the

motor cycle of the deceased. This is indeed a farfetched theory with no evidence or circumstances to corroborate it except the testimony of P. W. 4, Raj Kumar, photographer, that when he took the photographs, the trolley was separate from the tractor. It is pertinent to note, however, that he had specifically denied the suggestion that there was neither any tractor nor trolley when he reached the spot and it was later that they were brought there and then photographs were taken. A further suggestion was put to him that the trolley was fitted with the hook of the tractor at that time. This too was denied by him.

8. No reason or motive has been suggested for the police to have gone to the extraordinary extent of cooking up a false case against the appellant in this manner.

9. The version of the accident stands overwhelmingly established by the testimony of Suresh Kumar (P.W. 7), who was travelling on the motor cycle involved in the accident. His presence is corroborated by his injuries as a result of which he too had been rendered unconscious. His statement has been corroborated by Chandar Bhan (P. W. 6) who deposed that he had witnessed the accident while following about 100 yards behind the motor cycle of the deceased. Indeed, it was this Chander Bhan, who, immediately after the accident, took both the deceased and Suresh Kumar in a bus to the hospital and it was on his statement that the first information report, exhibit PB, was recorded. This report corroborates his testimony in court. Later, it was Chander Bhan who came back to the spot with the thanedar. There are no discrepancies or contradictions in the evidence led by the claimants on this issue to create any doubt therein. The finding of the Tribunal on the issue of negligence cannot, therefore, be assailed.

10. The compensation awarded to the claimants also admits of no interference in appeal. The evidence on record clearly establishes that Anand Kumar Singhal, deceased, was employed by his brother, who is a Government contractor at a salary of Rs. 650 per month. It would be relevant to note here is that the deceased had joined his brother after giving up his post as Sub-Divisional Engineer in the Haryana Warehousing Corporation. His salary as such was over Rs. 700 per month. On this basis, having regard to the age of the deceased and that of the claimants, the amount claimed and awarded to them was clearly fair and just.

11. In the result, this appeal is hereby dismissed with costs. Counsel's fee Rs. 300.