
(2002) 10 P&H CK 0001

In the Punjab And Haryana At Chandigarh

Case No : First Appeal Order No. 1121 of 1994 (O&M)

Banto Devi & others

APPELLANT

Vs

Mahabir Parshad & Ors.

RESPONDENT

Date of Decision : 22-10-2002

Acts Referred:

Citation : (2003) 2 LJR 800 : (2003) 1 RCR(Civil) 392

Hon'ble Judges : N.K.Sud, J

Advocate : Mr. Ashit Malik, Advocate. Mr. S.K. Goyal, Advocate, Mr. Ashwani Talwar, Advocate., Advocates for appearing Parties

Judgement

N.K. Sud, J. (Oral)

1. This appeal has been filed by the claimants against the award of the Motor Accident Claims Tribunal, Kurukshetra dated 3.3.1994.

2. The claimants are the legal heirs of Harkesh Lal, who had died in a road accident on 3.6.1991 involving Truck No. HYF 9016 owned by respondent No. 2 and was insured by respondent No. 3. They filed a claim petition claiming a sum of Rs. 10 lacs as compensation before the Motor Accident Claims Tribunal, Kurukshetra. After going through the evidence produced before it, the Tribunal awarded a sum of Rs. 1,51,200/ as compensation. The Insurance Company was absolved of its liability to pay the compensation on the ground that the deceased was a gratuitous passenger in the vehicle and as such Insurance Co. was not liable to pay compensation to the claimants.

3. Mr. Ashit Malik appearing on behalf of the appellants contends that the Tribunal had wrongly absolved the Insurance Company as it cannot deny its liability even qua gratuitous passenger. In support of his contention. He relies on the latest judgment of the Supreme Court in New India Assurance Co. v. Satpal Singh and others, 2000(1) SCC 237 : 2000(1) R.C.R.(Civil) 274.

4. Mr. Talwar appearing on behalf of the Insurance Company respondent No. 3 fairly concedes this position. Accordingly, this point has to be decided in favour of

the claimants.

5. Mr. Malik also states that the compensation awarded by the Tribunal is on the lower side. He submits that the income of the deceased has been estimated at a lower amount and the dependency has also been wrongly fixed as 2/3rd instead of 75 per cent. However, in view of the fact that the Tribunal has observed that no documentary evidence has been produced in support of the claim, I am not inclined to hold that the estimate made by the Tribunal was wrong. Accordingly, this appeal is disposed of with a direction to respondent No. 3 to deposit the entire amount of compensation as awarded by the Tribunal alongwith interest within two months from today for onward disbursement to the claimants. No costs.