
(1992) 12 P&H CK 0008
In the Punjab And Haryana At Chandigarh

Chander Mohani and Others	Vs	APPELLANT
Mehak Chand and Others		RESPONDENT

Date of Decision : 02-12-1992

Acts Referred:

Motor Vehicles Act, 1988 — Section 110

Citation : (1993) 2 ACC 289

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Judgement

Amarjeet Chaudhary, J.—This is claimants' appeal for the enhancement of compenssation.

2. The back ground which led to the filing of this appeal is that the claimants filed claim application in the Court of Motor Accidents Claims Tribunal, Karnal (hereinafter referred to as the Tribunal) u/s 110 of the Motor Vehicles Act demanding rupees three lack on account of the death of Tilak Raj as also on account of damage caused to truck No. HYA 9487 in a Vehicular accident.

3. The Tribunal after holding that liability of the bus driver and deceased truck driver was in the ratio or 40:60 respectively, granted compensation of Rs. 52.600/- to the claimants with 12% interest from the date of the claim petition.

4. Learned Counsel for the appellant has urged that the Tribunal has erred in assessing the monthly income of the deceased as also the dependency. According to the learned Counsel, keeping in view the fact that the deceased was 40 years at the time of his death, the Tribunal should have applied a higher multiplier instead of 16.

5. I have considered the submissions of the learned Counsel for the appellant and have perused the paper book.

6. The learned Tribunal presumed that the deceased must be away for 15 days in a month. As such he was getting Rs. 225/- per month @ 15/- per day as daily

allowance. I am not going to subscribe to the view taken by the Tribunal. It is the general tendency of the owner of the vehicle to take as much work as possible from its employees. Even a Driver working in the Government is given 10 days rest in a month. In view of this aspect of the matter, I am of the view that the deceased must be performing his duty for 20 days in a month and earning Rs. 300/- per month as daily allowance. Taking into account his salary i.e., Rs. 700/- per month and daily allowance i.e. Rs. 300/- the total monthly income of the deceased will come to Rs. 1,000/-. After meeting the personal expenditure, the dependency of the deceased comes to Rs. 700/- per month which will be 2/3rd of his total monthly income. Calculating the monthly dependency @ Rs. 700/- the yearly dependency comes to Rs. 8,400/- the deceased was 40 years of age at the time of his death and the possibility of plying truck by him for another 20 years cannot be out as a Government driver retires at the age 60 years. Therefore, a multiplier of 20 would be reasonable in this case. Taking into consideration the amount of annual dependency of the deceased and applying a multiplier of 20, the total amount of compensation comes to Rs. 1,68,000/-. I am of the view that since it is a case of contributory negligence, therefore, the liability of the contributory negligence of the Truck Driver and that of the Bus Driver can be attributed 50:50. Consequently, the appellants-claimants are entitled to Rs. 84,000/- as compensation with 12% interest from the date of claim petition.

7. Tirlok Singh (AW-8) had deposed that he had been working as Surveyor since 1982. He inspected Truck No. HYA 9487 and took photographs of the said Truck. He has assessed the damage to the truck after it met with accident at Rs. 62,204/- Taking into consideration the evidence of Chander Mohini, who had purchased this truck of 1973 model for Rs. 48,300/- in 1983 and disposed of the same after the accident for Rs. 35,000/- this Court has reached the conclusion that the claimants--appellants in this manner had suffered a loss of Rs. 13,300/- whereas the Tribunal had awarded a sum of Rs. 52,600/- as compensation. I am of the view that a sum of Rs. 10,000/- as compensation for the damage caused to the truck would be reasonable.

8. In the result, the appeal is allowed to the extent indicated above and the claimants are held entitled to compensation of Rs. 94,000/- including the damage caused to the truck. Out of this amount, the compensation already awarded by the Tribunal is to be adjusted. No order as to costs.