
(2006) 07 P&H CK 0076
In the Punjab And Haryana At Chandigarh

Fazilka Dabwali Transport Co. (P) Ltd. and Another	APPELLANT
Vs	
Asha Arora and Others	RESPONDENT

Date of Decision : 19-07-2006

Acts Referred:

Citation : (2007) 2 ACC 138 : (2006) 4 RCR(Civil) 286

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Judgement

Ranjit Singh, J.—This order will dispose of F.A.O. Nos. 1003 and 1038 of 1986 as they arise out of the same judgment.

2. Counsel for respondent No. 5 (in F.A.O. No. 1003 of 1986) has submitted that he has already informed his client that he would not be putting in appearance on their behalf in future. The Counsel further says that he has been informed that respondent No. 5 would make some alternate arrangement. Accordingly, learned Counsel seeks permission to withdraw from the case. He is permitted to do so. F.A.O. No. 1003 of 1986 has been filed by the Fazilka Dabwali Transport Company Private limited and driver of the bus impugning the order of the Tribunal whereby the claimants were granted compensation of Rs. 5,76,000. While awarding the said compensation, the Tribunal had held that the liability of the Insurance Company was limited to Rs. 1,50,000 and the remaining amount of compensation was to be paid by the appellants. This appeal was admitted on 8th December, 1986 and notice regarding stay was issued. On 18th March, 1987 this Court made the following order:

It is agreed between the learned Counsel for the parties that the appellant shall pay the decretal amount minus the amount payable by the Insurance Company in monthly instalments of Rs. 12,000 each. The amount of Rs. 10,000 will be adjusted towards the principal and Rs. 2,000 towards the interest. In case the appellant fails to pay any instalment, the whole of the balance amount shall become payable at once. The first instalment shall be paid by 20th April, 1987 by bank draft and subsequent instalments by 20th of each subsequent month.

Attachment shall continue. However, the property be not auctioned till further orders.

The amount be paid to the claimant-respondents in case they furnish security in the Executing Court to its satisfaction. The security be accepted after notice to the appellant.

Civil Miscellaneous Application stands disposed of accordingly.

4. This apparently shows that on an execution application filed by the claimants, attachment order had followed whereby the appellants were put to term to pay the amount found due against them by way of monthly instalments as noticed in the order reproduced above. Counsel for the parties have jointly stated before me that the instalments as mentioned in the order had been paid and accordingly the amount payable by the appellants has been realised. Counsel for the respondent-claimants herein points out that the Insurance Company was held liable to pay a sum of Rs. 1,50,000 whereas in terms of the insurance policy, the liability of company was limited to Rs. 50,000 only. She further submits that on an application moved by the Insurance Company in the F.A.O., the execution of the award qua Insurance Company beyond Rs. 50,000 was stayed on 19th December, 1986. The Counsel accordingly points out that a sum of Rs. 1 lakh, which was to be paid by the Insurance Company, has still not been paid to the claimants.

5. Counsel for the appellants, on the other hand, has very fairly drawn my attention to a judgment in the case of National Insurance Co. Ltd. Vs. Keshav Bahadur and Others, , to contend that the liability of the Insurance Company would be limited to Rs. 50,000 in view of the terms of the insurance policy. It is thus obvious that the remaining sum of Rs. 1 lakh would also be required to be paid by the appellants to the claimants. I have otherwise perused the award. A feeble attempt was made before me to urge that the compensation awarded is a bit excessive. No infirmity, otherwise, is pointed out before me. The deceased was running a weighing bridge and owned a tractor and was having income from agriculture. The income of the deceased was rightly assessed by the Tribunal. Compensation awarded is adequate having regard to the income of the deceased assessed by the Tribunal. Accordingly, no interference is called for in the award of the Tribunal.

6. F.A.O. No. 1003 of 1986 filed by the appellants is, accordingly, dismissed. The appellants are held liable to pay a sum of Rs. 1 lakh to the claimants, which is yet to be paid. F.A.O. No. 1038 of 1986 filed by the Insurance Company to the extent that the liability of the Insurance Company would be only restricted to Rs. 50,000 is allowed. No order as to costs.