
(2005) 12 P&H CK 0049

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 1001 of 1994 (O and M)

Harinder Kaur Dhillon and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 13-12-2005

Acts Referred:

Citation : (2007) ACJ 779 : (2006) 144 PLR 148 : (2006) 3 RCR(Civil) 243

Hon'ble Judges : Ashutosh Mohunta, J

Bench : Single Bench

Advocate : C.B. Goel, for the Appellant; S.K. Hooda, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

Ashutosh Mohunta, J.—The appellants who are the widow and two minor sons of the deceased Surinder Singh Dhillon, have filed the present appeal against the judgment of the Motor Accident Claims Tribunal, Kamal, dated 10.12.1993 by Which a compensation of Rs. 4,04,636/- was awarded to them.

2. Briefly the facts of the case are that on October 19, 1991, Surinder Singh Dhillon, Tirath Ram along with Balbir Kaur and other family members were going from Ambala to Delhi in Car No. DIA-1807. At about 5.00 P.M. when the car reached near Gharaunda, a bus belonging to Haryana Roadways bearing No. HNE-1982 came from the opposite direction i.e. from the Delhi side, which was being driven by Hoshier Singh, struck against the car. It is alleged that the bus was being driven at a very high speed in a rash and negligent manner and as a result of the accident Surinder Singh Dhillon and Tirath Ram died whereas Balbir Kaur received injuries. Ram Kumar PW7 lodged F.I.R. No. 329 (Ex.P8) which was recorded at Police Station, Gharaunda, and a case was registered against the driver of the Haryana Roadways bus, namely, Hoshier Singh. The parents of the deceased Surinder Singh Dhillon, namely, Balbir Kaur and Kehar Singh field a claim petition claiming a sum of Rs. 10,000/- (Rs. 10,00,000/-) as compensation. A separate claim petition was filed by the widow and two minor

sons of Surinder Singh Dhillon claiming a sum of Rs. 10 lacs as compensation on account of death of Surinder Singh Dhillon, The Motor Accident Claims Tribunal after recording evidence came to the conclusion that Surinder Singh Dhillon died as a result of the rash and negligent driving of the driver of the Haryana Roadways bus and awarded a compensation of Rs. 4,04,636/- in favour of the claimants i.e. the widow and two minor sons. The Tribunal also awarded a sum of Rs. 50,000/- in favour of Balbir Kaur and Kehar Singh, parents of the deceased Surinder Singh Dhillon.

3. Mr. C.B. Goel, counsel for the widow and two minor children of the deceased Surinder Singh Dhillon, has assailed the findings of the Tribunal with regard to the quantum of compensation awarded. It has been submitted by the learned Counsel that the deceased was working as an Inspector in the Central Excise and Customs Collectorate, Ahmedabad, and was drawing a salary of Rs. 3,942/- per month. A salary certificate Ex. P-52 has been placed on record which has duly been issued by the Chief Accounts Officer, Central Excise and Customs, Ahmedabad. It has further been averred that the deceased was 37 years of age. Learned Counsel has argued that firstly the Tribunal gravely erred in deducting 1/3rd amount from the total salary of the deceased towards his personal expenses. It is submitted that as the deceased had a large family to support i.e. aged father and mother, wife and two minor children, therefore, the deduction of 1/3rd amount from the total salary for personal expenses is on the higher side. Learned Counsel has submitted that the deduction on account of personal expenses should have been based on unit system i.e. two units for each adult and one unit for each of the minor children.

4. The above submission of the counsel for the appellants is well merited. As the deceased had a large family to support, therefore, his family circumstances itself did not allow him to spend 1/3rd of his salary on himself. If the unit system is applied then it would be seen that there were four adults and two minor children i.e. 10 units in all. As the salary of the deceased was Rs. 3,942/- per month, therefore, each unit would be entitled to Rs. 394/- per month. The deceased being an adult was, entitled to two units and was, therefore, spending a sum of Rs. 788/- per month on himself. If this amount is deducted from the monthly salary then the dependency of the family would come to Rs. 3,154/- per month which comes to Rs. 37,848/- per annum. As the deceased was 37 years of age at the time of his death, therefore, as per the second schedule attached to the Motor Vehicles Act, 1988 a multiplier of 16 would have to be applied and, therefore, the appellants are entitled to receive a sum of Rs. 6,05,568/- as compensation. Thus, the findings of the Tribunal with regard to deduction of 1/3rd amount from the total salary as personal expenses is set aside in view of the reasons indicated above.

5. It has next been contended by Mr. C.B. Goel, counsel for the appellants, that no amount of compensation has been awarded to the claimants on account of loss of future prospects. Learned Counsel submits that the deceased was a young

man of 37 years of age and was working as an Inspector in the Central Excise and Customs Department. It is submitted that, had the deceased rendered full service in the Excise and Customs Department then he would have gone upto the rank of atleast Assistant Collector if no Collector. It is further submitted that the retirement age of the deceased was 60 years and, therefore, the deceased still had 23 years of service left. Learned Counsel has contended that in view of the above the Tribunal ought to have awarded another sum of Rs. one lac towards future prospects of the deceased. Learned Counsel has also relied upon the judgment in Smt. Sarla Dixit and another Vs. Balwant Yadav and others, :

6. A perusal of the aforementioned facts clearly shows that the deceased was relatively young being 37 years of age only at the time of his death. He still had 23 years of service left and, therefore, would obviously have risen to higher post. Thus, keeping in view the future prospects of the deceased. I award another sum of Rs. 50,000/- for future prospects. I also award a sum of Rs. 5,000/- for loss of consortium and another sum of Rs. 10,000/- for funeral expenses.

7. Mr. C.B. Goel, learned Counsel for the appellants, has also submitted that both the parents of the deceased have died during the pendency of this appeal and, therefore, the entire compensation be given to the present appellants. This fact has not been controverted by the counsel appearing for the respondents and, hence, this prayer is accepted.

8. The net result of the above discussion is that the appellants are held entitled to receive a sum of Rs. 6,70,568/-. They are also entitled to interest at the rate of 12% per annum from the date of the claim petition till the date of realisation. The amount already paid to the claimants as well as the amount paid to Balbir Kaur and Kehar Singh, who are the parents of the deceased Surinder Singh Dhillon shall be deducted while paying the enhanced compensation.

9. The judgment of the Motor Accident Claims Tribunal, Karnal, dated 10.12.1993 is modified to the extent indicated above.