(1985) 05 P&H CK 0091

In the Punjab And Haryana At Chandigarh

Case No : F.A.F.O. No. 224 of 1981 and Cross-Objection No. 47-CII of 1981

Haryana State and Another — APPELLANT

Vs

Kailash Khanna and Others — RESPONDENT

Date of Decision : 08-05-1985

Acts Referred:

Citation : (1987) ACJ 536

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

Bench : Single Bench

Advocate : Mohan Jain, for A.G, for the Appellant; V.P. Gandhi, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Sodhi, J.—A Haryana Roadways bus HRF 5188 hit into a cycle-rickshaw on which Sham Lal Khanna deceased was travelling. As a result of the impact, he was thrown off the cycle-rickshaw and later died on account of the injuries sustained by him when he fell. This happened on November 23, 1979 at about 11.30 a.m. at Bahadur Garh on the Hissar-Delhi Road. The bus driver was found to be wholly to blame for this accident. A sum of Rs. 75,000/- was awarded as compensation to the claimants, they being the widow and sons of Sham Lal deceased.

2. The challenge in appeal here is to the quantum of compensation payable to the claimants.

3. The evidence on record would show that Sham Lal Khanna deceased was about 65 years of age at the time of his death. He died leaving behind his widow Kailash Khanna, who was 55 years old and two sons and two daughters. Both the daughters were married and the eldest son was residing permanently in Madras. The only child dependent upon him was his younger son Jatinder Khanna, who was about 23 years of age at the time of his accident. He was unemployed and had not yet been able to get a job.

4. It is the testimony of AW 9 G.K. Pillai. Commercial Officer of Parkash Tubes Limited that Sham Lal Khanna deceased was an agent of their firm. According to the agreement executed between them in this behalf, exhibit AW 9/A, he was entitled to 2? per cent commission on the value of sales effected through him. G.K. Pillai also proved the account exhibit AW 9/C of the various amounts paid as commission to the deceased as also his certificate exhibit AW 9/D that the deceased had booked orders for G.I. pipes worth about Rs. 60,00,000/- in the year 1979 and the commission payable to him on these orders was approximately Rs. 1,35,000/-.

5. Next to note is the testimony of the Chartered Accountant, AW 10 Ramesh Malhotra, who stated that the estimated income of the deceased for the assessment year 1980-81 was about Rs. 28,000/- on which the tax payable was over Rs. 4,000/-.

6. Finally, there is the testimony of the claimant AW 1 Kailash Khanna, who deposed that the deceased used to pay her Rs. 2,500/- to Rs. 3,000/- per month for her household expenses whereas his own expenses were Rs. 400/- to Rs. 500/- per month and that too when he had to go out, but when residing in Simla, they were only Rs. 200/- to Rs. 300/- per month.

7. It would be seen that Sham Lal Khanna deceased was about 65 years of age when he was killed in this accident, but he was in good health. This being so, the Tribunal cannot be faulted for taking ''5'' to be the appropriate multiplier in this case. The income of the deceased must be taken to have been to the tune of Rs. 2,000/- per month. Keeping in view the principles laid down by the Full Bench in Lachman Singh v. Gurmit Kaur 1979 ACJ 170 (P and H), the dependency deserves to be taken at Rs. 20,000/- per annum. This would work out to Rs. 1,00,000/-. The compensation payable to the claimants is accordingly hereby enhanced to Rs. 1,00,000/- (Rs. one lac only) which they shall be entitled to along with interest at the rate of 12 per cent per annum from the date of the application to the date of the payment of the amount awarded. Out of the amount awarded, a sum of Rs. 20,000/- shall be payable to Jatinder Khanna, the younger son of the deceased and the balance to his widow.

8. In the result, the cross-objections filed by the claimants are accepted while the appeal is dismissed with costs. Counsel''s fee Rs. 500/-

