
(2005) 12 P&H CK 0046

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No"s. 987 and 988 of 2005

Himachal Road Transport Corporation and Another

APPELLANT

Vs

Baldev Kumar Nayyer and Others

RESPONDENT

Date of Decision : 13-12-2005

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 166

Citation : (2006) 4 ACC 125 : (2007) ACJ 678 : (2006) 143 PLR 75 : (2006) 2 RCR(Civil) 682

Hon'ble Judges : Virender Singh, J;N.K. Sud, J

Bench : Division Bench

Advocate : Neeraj Khanna, for the Appellant; A.P. Manchanda, for the Respondent

Final Decision : Allowed

Judgement

N.K. Sud, J.—This order will dispose of two appeals viz F.A.O. Nos. 987 and 988 of 2005 which are directed against the common award passed by the Motor Accident Claims Tribunal, Panchkula (for short the Tribunal)" dated 6.11.2003. The claimants in F.A.O. No. 987 of 2005 are the legal representatives of Girish Nayyer, who had died in a road accident on 28.12.1999. The claimant in F.A.O. No. 988 of 2005 is the person, who had sustained injuries in the said accident. Vide the impugned award, the Tribunal has awarded a compensation of Rs. 4,55,000/- to the legal representatives of the deceased Girish Nayyer and Rs. 70,000/- to the injured. The Tribunal has also awarded interest @ 9% per annum from the date of claim petition till the date of realisation.

2. In the claim petitions filed u/s 166 of the Motor Vehicles Act, 1988 (for short "the Act"), the claimants had claimed the income of the deceased/injured to be more than Rs. 40,000/- per annum. However, during the course of proceedings before the Tribunal a prayer was made that the petitions be treated as petitions u/s 163-A of the Act by restricting the income of the deceased/injured to less than Rs. 40,000/- per annum. The Tribunal accepted this prayer and has allowed

the petitions by treating the same as petitions u/s 163-A of the Act.

3. On the last date of hearing, counsel for the appellant had placed reliance on the judgment of Apex Court in Deepal Girishbhai Soni and Others Vs. United India Insurance Co. Ltd., Baroda, to contend that in view of the claim of the claimants themselves that the income of the deceased/injured was more than Rs. 40,000/- per annum, the Tribunal was not justified in treating the petitions to be petitions u/s 163-A of the Act and awarding compensation without going into the question of negligence. Counsel for the claimant-respondents had sought time to go through the said judgment. He has not been able to refer to any other subsequent judgment of the Supreme Court taking a contrary view.

4. In this view of the matter, we are satisfied that the impugned award dated 6.11.2003 cannot be sustained. The Tribunal could not have treated the petitions filed u/s 166 of the Act as petitions u/s 163-A of the Act by restricting the income to Rs. 40,000/-. This issue stands settled by the Apex Court in Deepal Girish's case (supra). Accordingly, we set aside the impugned award dated 6.11.2003 and direct the Motor Accident Claims Tribunal, Panchkula to decide the petition filed u/s 166 of the Act in accordance with law.

5. Resultantly, both the appeals stand allowed.

6. No costs.

7. The amount of Rs. 25,000/- deposited by the appellant in each these two appeals shall be remitted back to the Tribunal for further action in accordance with law.