
(2014) 04 P&H CK 0145
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 656 of 1996 (O & M)

Inderjit Kaur and Another

APPELLANT

Vs

Balbir Singh and Others

RESPONDENT

Date of Decision : 28-04-2014

Acts Referred:

Succession Act, 1925 — Section 306

Citation : (2014) 04 P&H CK 0145

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Arvind Singh, Advocate for the Appellant; Ashwani Talwar, Advocate for insurance company, Advocate for the Respondent

Final Decision : Allowed

Judgement

K. Kannan, J.—This order shall dispose of the above titled appeals as the same arise out the same accident.

2. In a collision between Jeep and truck two persons travelling in the jeep died; two persons were injured. The Tribunal found the involvement of the truck as established but assessed the compensation only on no fault basis because the driver had not been challaned for rash and negligent driving but proceeded with only for non-possession driving licence. I find the approach of the Tribunal to be perverse. The decision of the Tribunal need not tow the police perspective of the accident. The Tribunal was bound to examine the issue of negligence on the basis of evidence. Here two persons who were injured had given cogent evidence about the rash driving of the 2nd respondent driver. The Tribunal expressed a doubt about the identity of 1st respondent as the driver of the truck but, in my view, it ought not to matter at all, for, whoever the driver he was, dashed against the jeep and let the latter capsize, it was enough for the claimant to succeed.

3. In FAO 656 of 1996, the claim is sought with regard to the death of a minor daughter and the claimants were parents. I have no details regarding the age of

the deceased or evidence regarding the likely expectation of the parents. I assess a compensation of Rs. 2,75 lacs as the compensation payable to parents with interest @ 7.5% per annum from the date of the petition till the date of payment. The liability shall be on the insurance company. The appeal is allowed to the above extent.

4. FAO No. 657 of 1996 is the claim for death of a woman. Her age is not known. The claimants are husband and two minor children. Considering that the children are still minors, I venture a guess that the deceased is about 40 years. I take the value of service contributed to the family at Rs. 2500/- and determine the compensation by applying a multiplier of 14 and take the loss of dependence at Rs. 4,20,000/-. I add Rs. 1 lac for loss of consortium to the husband and Rs. 1 lac for loss of love and affection to the children and add another Rs. 10,000/- for loss to estate and funeral expenses. Various heads of claim are tabulated as under:-

5. The compensation payable shall be Rs. 6,27,500/- with interest @ 7.5% per annum from the date of the petition till the date of payment. The entitlement shall be divided equally amongst the claimants and the liability shall be on the insurance company. The appeal is allowed.

6. In FAO No. 658 of 1996, the claimant was Avtar Singh, father of Inderjit Kaur. He was said to be 106 years old at that time. It is not known if he is alive. If he is alive, he shall be entitled to Rs. 5000/- towards single injury caused to him for pain and suffering. If he has died, there shall be an abatement of the claim as per Section 306 of the Indian Succession Act. The appeal is disposed of as above.

7. In FAO No. 659 of 1996, the claimant had injuries that were: fracture of right femur; fracture of ulna and fracture of tibia. The disability assessed at 55% was contributed to 50% disability due to ankylosis of the knee and 5% due to limitation of elbow movement. There was evidence that surgeries had been performed. No details are placed before this court about the age, the period of hospitalization, the avocation etc. I will make guess work regarding expenses and tabulate the various heads as under:-

8. The appeal is allowed admitting to a claim of Rs. 1,05,000/- and the amount in excess over what has been awarded will carry interest @ 7.5% from the date of the petition till the date of payment. The liability shall be on the insurer of the truck Oriental Insurance Co.