

(1984) 07 P&H CK 0031
In the Punjab And Haryana At Chandigarh

Jagdish Chand Sharma

APPELLANT

Vs

Ram Kali and Others

RESPONDENT

Date of Decision : 11-07-1984

Acts Referred:

Citation : (1984) 2 ACC 519

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

Bench : Single Bench

Judgement

S.S. Sodhi, J.—The challenge here is to the Award of Rs. 10,000/- as compensation to the claimant Smt. Ram Kali for the injuries suffered by her when she was run over by the truck HRC 5468.

2. The accident here occurred on October 17, 1977 at about 5.30 P.M. Smt. Ram Kali was sitting near a cobbler, opposite the Civil Hospital, Palwal, when the truck came and ran her over. As a result of the injuries sustained by Smt. Ram Kali, both her legs had to be amputated. The amount claimed and awarded as compensation for these injuries was Rs. 10,000/-. The finding of negligence warrants no interference in appeal. Counsel for the appellant, truck owner could point to no material on record, on the basis of which this finding could in any manner be questioned. It stands established from the material on record that the truck went off the road and ran over Smt. Ram Kali, who was sitting on the Kacha portion thereof.

3. Similarly no exception can be taken to the amount awarded; as compensation to the claimant Smt. Ram Kali, considering the nature and extent of the injuries suffered by her. Indeed, she now stands wholly incapacitated and unable to earn her livelihood. She was a daily labourer. Both of her legs being amputated, she is obviously no longer capable for working as such.

4. Counsel for the appellant sought to contend that the claim against the truck owner was barred by limitation. He referred here to the fact that in the claim application as originally filed, the owner of the truck was shown to be Ram

Chander Sharma, whereas the owner, in fact, was his son, the present appellant Jagdish Chand Sharma. Further the number of the truck mentioned in the claim application then was HRC--5468; whereas it was, infact, HRC--5468. These errors were corrected in the amended claim application which was filed on August, 1, 1978. The argument raised being that by this date, that is, August, 1, 1978 the period of limitation had expired and thus the claim against the truck owner was not maintainable. This is indeed, a contention which does not deserve acceptance. The provisions of Motor Vehicles Act governing this matter are to be liberally construed in the interest of substantial justice. The Tribunal rightly condoned the delay in giving the correct particulars of the truck and its owner. Limitation cannot, therefore, be held as a bar against the claimant.

5. It has come on record that the truck was being driven by Nasir Khan respondent when the accident occurred. Nasir Khan admittedly had no driving licence and it was for this reason that the Insurance Company was not held liable for payment of the amount awarded. It was sought to be argued that Chhote Lal was the driver employed by the owner for driving the truck and it was due to the negligence of Chhote Lal that Nasir Khan had been allowed to drive the truck. The owner of the truck must be held vicariously liable for this negligence of Chhote Lal and consequently the Insurance Company was liable to pay the amount awarded. No such plea had however been raised by the truck owner and it cannot, therefore, be entertained at this stage.

6. There is, thus, no merit in this appeal and it is accordingly hereby dismissed with costs. Counsel's fee Rs. 300/-.