
(2006) 08 P&H CK 0370
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 524 of 1988

Jarnail Singh

APPELLANT

Vs

Inda Devi and Others

RESPONDENT

Date of Decision : 09-08-2006

Acts Referred:

Citation : (2006) 08 P&H CK 0370

Hon'ble Judges : S.N. Aggarwal, J

Bench : Single Bench

Advocate : R.K. Verma, for the Appellant; Jagdish Manchanda, for respondent Nos. 1 to 8 and R.M. Suri, for the Respondent

Judgement

S.N. Aggarwal, J.—Ram Narain was Mali-cum-Chowkidar in the Public Health Department of the Haryana Government. He was posted at Kaithal. He was getting Rs. 700/- per month as salary.

2. On 2.7.1986 Ram Narain and his colleague Vinod Kumar were proceeding on Malgodam Road, Kaithal. In the meantime, truck No. HYL6562 driven by the appellant came from the opposite side and hit Ram Narain. As a result of this accident, Ram Narain died at the spot. On this, his widow, three minor children, one brother and parents filed claim petition against the appellant being the owner and driver of the offending vehicle and against the New India Assurance Company, respondent No. 9.

3. The petition was contested by the appellant and by the Insurance Company.

4. Issues were framed. The parties led the evidence.

5. The learned Tribunal reached the conclusion that the accident was caused by the appellant by driving truck No. HYL-6562 rashly and negligently by which he had hit Ram Narain who died as a result of this accident. It was held that Ram Narain was working privately also and his total income was about Rs. 800/- to Rs. 900/- per month .After reducing notional expenditure of Ram Narain on

himself, the amount of dependency was taken to be Rs. 600/- per month. Ram Narain was 32 to 35 years of age and accordingly a multiplier of 16 was applied and the amount of compensation was assessed at Rs. 1,15,200/-. The claimants were also awarded interest at the rate of 12% per annum from the date of application till the date of actual recovery with costs. The learned Tribunal also held vide award dated 9.2.1988 that since the vehicle was not insured, therefore, only the appellant being the owner and driver of the offending vehicle was liable to pay the amount of compensation.

6. Hence, the present appeal.

7. The submission of learned Counsel for the appellant was that wrong assessment of the amount of compensation has been made. The private income of Ram Narain was not proved. His salary was only to the extent of Rs. 657-30P vide salary certificate, Exhibit P-1 and, therefore, fixation of the amount of dependency at Rs. 600/- was highly excessive.

8. This submission has been considered. It has no merits. The claimants are the widow, three minor children, one minor brother, mother and father of Ram Narain, deceased. Therefore, personal expenditure of Ram Narain must be very meagre and he must be sparing the remaining portion of salary for his parents, widow and minor children. Therefore, there is nothing wrong in the order of the learned Tribunal in holding the amount of dependency at Rs. 600/- per month. This Court does not feel inclined to disturb the amount of dependency awarded by the learned Tribunal.

9. It was further submitted that the multiplier is wrongly applied. Ram Narain was 32/33 years of age and multiplier of 16 has been applied. The multiplier is not abnormal and, therefore, this finding also cannot be disturbed.

10. It was further submitted by the learned Counsel for the appellant that the rate of interest has been awarded at the rate of 12% per annum which is highly excessive. Reliance was placed on the recent judgment of the Hon''ble Supreme Court reported as U.P. Road Transport Corporation v. Krishna Bala 2006 AIR 3613 in which the interest was reduced from 12% per annum to 9% per annum. This Court also feels satisfied that the rate of interest awarded is excessive. Accordingly, the same is modified to 9%.

11. Accordingly, this appeal is partly accepted, inasmuch as the rate of interest is reduced to 9% from 12% per annum. The remaining part of award dated 9.2.1988 remains the same.