
(2006) 02 P&H CK 0086

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 733 of 1990

Jaswant Singh Attwal and Others

APPELLANT

Vs

Didar Singh and Others

RESPONDENT

Date of Decision : 22-02-2006

Acts Referred:

Citation : (2007) ACJ 454 : (2006) 143 PLR 419 : (2006) 2 RCR(Civil) 537

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Advocate : J.S. Toor, for the Appellant; D.S. Jandiala, Addl. A.G., for the Respondent

Final Decision : Dismissed

Judgement

Viney Mittal, J.—This judgment shall dispose of F.A.O. No. 733 of 1990, F.A.O. No. 797 of 1990, F.A.O. No. 895 of 1990 and F.A.O. No. 924 of 1990 as all the appeals have arisen out of a common accident which had occurred on July 26, 1987. F.A.O. No. 733 of 1990 and F.A.O. No. 797 of 1990 have been filed by the claimants claiming further enhancement, whereas, F.A.O. No. 895 of 1990 and F.A.O. No. 924 of 1990 have been filed by the State of Punjab challenging the award of the Motor Accidents Claims Tribunal, Hoshiarpur (for short, "the Tribunal"), whereby the liability to pay the compensation had been fixed upon the appellants.

2. On July 26, 1987, an accident had occurred. Satwant Singh aged 45 years and his sister-in-law aged 55 years died in the aforesaid accident. At the time of his death. Satwant Singh was working as a Scientist in United States of America. According to the claimants, he was drawing yearly salary of 73,000 US dollars. Similarly, at the time of death, she was working in a watch factory and it was claimed that she was earning annually # 84,154. The claim petition was filed on account of death of Satwant Singh by his dependents, namely, his widow Gurpreet Kaur, his two daughters Sangita Kaur and Sujan Kaur and his minor son Maninder Singh. In the case of death of Balwant Kaur, the claim petition was filed

by her husband Jaswant Singh, her daughter Harminder Kaur and her son Shlander Singh.

3. The claimants in two separate claim petitions maintained that the accident in question had been caused on account of rash and negligent driving of bus No. AF2 driven by Didar Singh, driver and owned by Punjab Roadways Depot, Pathankot. Consequently, the claimants claimed that they were entitled to compensation.

4. The learned Tribunal tried the aforesaid claim petitions separately and independently. However, identical findings were recorded by the Tribunal in the aforesaid two claim petitions. The Tribunal held that the driver of bus No. AF2 was driving the aforesaid vehicle rashly and negligently at the time of accident. It was further held that on account of the aforesaid fact, the accident had occurred causing death of Satwant Singh, Balwant Kaur and Surjit Singh, the driver of the car.

5. It may be noticed that the dependents of Surjit Singh, driver of the car, had also filed a separate petition and were awarded the compensation by the Tribunal. The aforesaid award of the Tribunal has not been challenged by the claimants or by the State of Punjab before this Court.

6. The claimants in the case of Satwant Singh had stated that at the time of his death, he was serving in United States of America and was earning 73,000 US Dollars per year. However, the learned Tribunal assessed the yearly income of Satwant Singh at 42,000/- U.S.D. It was further taken that because of the heavy taxes, an amount of 18,644 U.S.D. came to his hands. Out of the aforesaid amount, it was taken that half of the said amount was being spent by Satwant Singh upon himself and the remaining half was treated as his dependency. A multiplier of 14 was applied by the Tribunal and consequently the compensation was assessed at Rs. 16,98,200/- which was held to be payable to the claimants in equal shares along with interest.

7. Similarly, in the case of Balwant Kaur, her income was assessed at \$ 4055.63 per annum. Half of the same was taken to be required by her for her own expenses, whereas, the remaining half was treated as her dependency. A multiplier of 10 was applied. In these circumstances, the total compensation payable for her death was assessed at Rs. 4,20,000/- along with interest.

8. As noticed above, the claimants have now filed the present two claim petitions claiming further enhancement, whereas, State of Punjab has chosen to file the cross appeals challenging the award of the Tribunal.

9. I have heard Shri J.S. Toor, the learned Counsel appearing for the appellants and Shri D.S. Jandiala, the learned Additional Advocate General, Punjab appearing for the State of Punjab and with their assistance have also gone through the record of the case.

10. Shri J.S. Toor in the case of Satwant Singh has argued that documents

Ex.P15 and P16 have been completely misread by the Tribunal and, therefore, the finding with regard to the annual income of the deceased is totally erroneous. Shri Toor has referred to the aforesaid documents to support the aforesaid contention.

11. However, after taking into consideration the aforesaid documents, I do not find any merit in the contention of Shri Toor. The documents in question only mention certain figures which are not supported by any evidence on the record. Neither it has been shown as to what was the actual deductions in tax in the case of Satwant Singh nor it has been shown as to how much money was he carrying home. In these circumstances, it would be wholly inappropriate to take that there is any misreading of the aforesaid document by the Tribunal. The Tribunal, has in my considered opinion, assessed the annual income of the deceased Satwant Singh correctly and his dependency has also been assessed rightly. A multiplier of 14 has been applied which is not shown to be on lower side in any manner. Consequently, I find no scope for interference, for further enhancement, in the case of death of Satwant Singh.

12. Similarly, in the case of death of Balwant Kaur, her income has been taken \$ 4055.63 per annum. It was argued that in the case of Balwant Kaur it could not be taken that her dependency was only to the extent of half of her annual income. It has been argued that the dependency should have been assessed at 2/3rd.

13. Having given my thoughtful consideration to the aforesaid argument of the learned Counsel, I do not find any justification to hold that the dependency in the case of death of Balwant Kaur has been inadequately assessed. There is no scope for farther enhancement in the case of Balwant Kaur.

14. Shri D.S. Jandiala, the learned Additional Advocate General has sought to argue that the driver Didar Singh was not shown to be negligent in any manner, therefore, the findings are liable to be set aside. However, the aforesaid argument is not open to the State of Punjab, as noticed above, in the aforesaid accident, the driver Surjit Singh who was driving the car had also died. The dependents of the deceased Surjit Singh were also awarded compensation by holding that Didar Singh was driving the offending vehicle in a rash and negligent manner. The State of Punjab has chosen not to file any appeal in that case. Once the State of Punjab has accepted the findings recorded by the Tribunal in the case of death of Surjit Singh, then it is not open to it to challenge the said findings in the present appeals.

In view of the aforesaid discussion, I do not find any merit in either of the appeals. All the appeals are accordingly dismissed.