(2013) 09 P&H CK 0519

In the Punjab And Haryana At Chandigarh

Case No : FAO No. 6613 of 2010 (O and M)

Kashmir Kumar and Others — APPELLANT

Vs

Mohan Singh and Others — RESPONDENT

Date of Decision : 23-09-2013

Acts Referred:

Citation : (2014) 174 PLR 13

Hon'ble Judges : Nawab Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Nawab Singh, J.—Satya Devi, aged 58 years, a pensioner died in a vehicular accident on March 11, 2007 due to rash and negligent driving of truck No. HR-46-9873 by Mohan Singh - respondent No. 1, at Pathankot. First Information Report No. 19 dated March 11, 2007 (Exhibit P4) was registered by the Police of Police Station Division No. 1, Pathankot against the driver of the truck. Post mortem examination was conducted on the dead body of Satya Devi and the report is Exhibit P5.

2. Two major sons and one major daughter of Satya Devi filed claim application u/s 166 of the Motor Vehicles Act, 1988 (for short ''the Act'') before Motor Accident Claims Tribunal, Gurdaspur (for short ''the Tribunal''). The Tribunal vide its-award dated March 17, 2010 awarded compensation of Rs. 1,00,000/- along with interest at the rate of 9% per annum, to the claimants.

3. Feeling dissatisfied with the amount of compensation, the claimants have filed the instant appeal. Learned counsel for the Insurance Company, while opposing the appeal has stated that the claimants were not dependent on the income of the deceased.

4. The matter was referred to the Mediation and Conciliation Centre of this Court, where, learned counsel for the claimants stated that he would accept Rs. 1,75,000/- in full and final settlement of the claim, but that offer was not

accepted by the Insurance Company.

5. Indisputably, the claimants, that is, two sons and one daughter of the deceased are major and married. They were not dependent on the income of the deceased. Section 166 of the Act stipulates that an application for compensation arising out of motor vehicle accident resulting into death of a person can be filed by all or any of the legal representatives of the deceased. Thus, the Statute makes it clear that a claimant must be legal representative of the deceased and it is not essential that he should be dependent upon the income of the deceased, to claim compensation.

6. The Hon''ble Supreme Court in Gujarat State Road Transport Corporation, Ahmedabad Vs. Ramanbhai Prabhatbhai and Another, observed that legal representative is one who suffers on account of death of a person due to a motor vehicle accident. Therefore, even if there is no loss of dependency, legal representatives, who inherited the estate of the deceased, will be entitled to compensation.

7. In the case in hand, the deceased was getting monthly pension of Rs. 5565/-, a fact which is proved by Vinod Kumar Sharma (AW2), Senior Auditor in the office of Defence Pension Disbursing Office. He also proved Certificate (Exhibit AI) issued by Defence Pension Disbursing Officer, Pathankot, reiterating this fact. Any contribution made by the deceased after meeting her daily requirements, forms a part of the estate and the claimants are none-else but the legal representatives of the deceased, who are entitled to succeed her estate.

8. The claimants did not lead any evidence, worth the name, to prove that they were dependent on the income of the deceased, but at the same time, the fact remains that they have lost their mother. In other words, they have suffered on account of loss of love and affection, mental shock and suffering. They also cannot be deprived of compensation on account of ''funeral expenses''.

9. Considering all above aspects of the case, this Court feels that ends of justice would be met, if the claimants are awarded compensation of Rs. 1,50,000/-, that is, Rs. 50,000/- over and above the amount awarded by the Tribunal. In view of above, the appeal is partly accepted and the Award of the Tribunal is modified to the extent that the claimants are held entitled to total compensation of Rs. 1,50,000/-. The interest on the enhanced amount of Rs. 50,000/- (1,50,000-1,00,000) shall be paid from the date of filing claim application till the amount was deposited by the insurance company under the impugned Award at the same rate of interest as was awarded by the Tribunal.