

(1995) 05 P&H CK 0119

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 1702 of 1992

Labh Kaur and Others

APPELLANT

Vs

Raj Kumar and Others

RESPONDENT

Date of Decision : 04-05-1995

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A

Citation : (1996) ACJ 744 : (1995) 110 PLR 522

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Advocate : Jagdish Manchanda, for the Appellant; Pradeep Bedi, for the Respondent

Final Decision : Allowed

Judgement

Amarjeet Chaudhary, J.—Des Raj, resident of village Tikri, Tehsil Pehowa, District Kurukshetra, died on 1.7.1990 in a road accident. The heirs of the deceased i.e. Labh Kaur widow of the deceased and her minor children filed a claim petition before the Motor Accidents Claims Tribunal, Kurukshetra under s 166 and 140 of the Motor Vehicles , seeking compensation, which was declined by the Tribunal holding that the accident was not caused due to rash and negligent driving of respondent No. 1, Raj Kumar.

2. In the present appeal, the claimants have assailed the finding of the Motor Accidents Claims Tribunal and have prayed for setting aside the same.

3. It is pertinent to mention here that the Tribunal had assessed the dependency of the claimants on the deceased at R 12,000/- per annum and by applying a multiplier of 16 the claimants were held entitled to R 1,92,000/- as compensation but no compensation was paid to them, as mentioned earlier.

4. In the written statement, the plea taken by the respondents was that the accident was not caused due to rash and negligent driving of respondent No. 1. It was being driven on slow speed on its right side. However, it was admitted that

the offending vehicle No.HNK-3052 was being driven by Raj Kumar and was owned by Parmod Kumar.

5. The claimants in to prove their case had produced PW-1, Mangal Singh, who had deposed that he was going to his village Tikri from Pehowa after purchasing domestic When he reached near Pehowa Bus Stand, one Maruti van which was coming from Ambala side and was being driven by the driver at a high speed of about 80 k.m. in a rash and negligent manner struck against the deceased who was going on foot. This witness also deposed that the accident was caused due to rash and negligent driving of respondent No.1, who thereafter sped away from the spot. According to this witness, he alongwith one Satpal had removed the deceased to the Hospital and thereafter he informed the family members of the deceased. However, the Tribunal did not accept the testimony of this witne

6. The driver of the offending vehicle, Raj Kumar was prosecuted in a criminal case under s 279 and 337 of the Indian Penal . He had made confessional statement before the judicial Magistrate 1st Class, Pehowa. The Court while taking into consideration the nature of offence and the circumstances, sentenced him to pay a fine of R 200/- for an offence under 279 of the and R 500/- for an offence under 337 of the .

7. Learned counsel for the appellants contends that the commission of an offence under s 279 and 337 of the Indian Penal was duly proved. As such, the finding of the Tribunal to the effect that accident was not caused due to rash and negligent driving of respondent No. 1 be set aside.

8. After having heard learned counsel for the parties and perusing the paper book, this Court find merit in the submission of learned counsel for the appellant. It is settled principle of that while the judgment of the criminal Court pertaining to an accident is not relevant for adjudication of a claim for compensation beyond the f that the driver of the offending vehicle was tried and convicted, any admission of guilt made by him in the course of such a trial in the absence of any explanation or other material on record leads to the only interpretation that the accident was caused due to rash and negligent driving of the driver. This view is based on Gulshan Kumar v. Balwinder Singh and Ors. 1986 A.C.J. 809 (P&H).

9. As mentioned in the earlier part of the judgment the driver of the offending vehicle pleaded guilty in the criminal case. In view of admission of guilt without any explanation in the present proceedings, a safe conclusion can be drawn that the accident was caused due to rash and negligent driving of offending vehicle.

10. For the foregoing reasons, the finding of the Tribunal to the effect that the accident was not caused due to rash and negligent driving of respondent No. 1, is set aside. The claimants are held entitled to R 1,92,000/- as compensation, as determined by the Tribunal. The claimants are also held entitled to the interest at the rate of 12% per annum from the date of filing of the claim petition. The compensation amount is to be shared as under:-

1. Labh Kaur, Widow R 99,000/-
2. Rajpal Singh, minor son. R 31,000/-
3. Balvinder Kaur, minor daughter. R 31,000/-
4. Gurdeep Singh, minor son. R 31,000/-

The share of the minors be deposited in the scheduled bank in fixed deposit in their respective names and shall be disbursed to them on attaining their majority.

11. The compensation amount is to be paid by the Insurance Company. The appeal is allowed in the manner indicated above.