
(2014) 01 DEL CK 0306
In the Delhi High Court
Case No : MAC. A. 857 of 2006

M/s. National Insurance Co. Ltd.

APPELLANT

Vs

Ajeet Kaur and Others

RESPONDENT

Date of Decision : 16-01-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A

Citation : (2014) 01 DEL CK 0306

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Khyati Sharma and Ms. Sonia Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

Suresh Kait, J.—Instant appeal has been preferred against the impugned award dated 26.07.2006, whereby the learned Tribunal had granted compensation for a sum of Rs. 1,93,000/- for the death of Baljinder Singh, who met with an accident on 16.12.1999 and died on 18.12.1999. Vide the instant appeal, the only ground urged by the appellant/Insurance Company is that the injuries of the deceased were not fatal; therefore, he had not died due to the injuries received in the accident. However, the learned Tribunal erred in granting the compensation for death of the deceased.

2. Learned counsel appearing on behalf of the appellant/Insurance Company submitted that as per the post-mortem report, deceased had died due to cardiac arrest. It was specifically mentioned in the said report that the cause of death was natural.

3. Facts of the case are that on 16.12.1999, respondent No. 2, Shri Rajesh Sapra, came to the house of Smt. Ajeet Kaur (claimant), i.e., mother of the deceased, and asked her to take her son Baljinder Singh to Village Gwahi, P.S. Dhali, Himachal Pradesh in Maruti Van bearing No. DL-8CA-1816 as he had to make payment to someone at the said Village. When said Van, being driven by

respondent No. 2 in rash and negligent manner at high speed, reached near Village Thund from Village Try, became uncontrollable and fell into 300-400 feet deep ditch, due to which Baljinder Singh sustained injuries. After removing him from the ditch, he was taken to house of one Sanju at Village Gwahi Thund in another vehicle of that village. On the next day, they went to Solan for medical check-up. From there, Baljinder Singh was referred to the Government hospital. Instead of going to Government Hospital, respondent No. 2 started his journey back to Delhi in another vehicle bearing registration No. HP-01-0048, however, Baljinder Singh succumbed to the injuries on the way back to Delhi.

4. It has come on record that the villagers took the deceased to Solan for medical check-up and from there he was referred to the Government hospital, but deceased insisted that he was feeling all right, therefore, they did not go for further treatment.

5. On 18.12.1999, they hired a taxi for Delhi. On the way at Ambala, they had snacks, but deceased preferred to sleep in the rear seat. Thereafter, at Karnal bypass, Shri Kuldeep Rishi, a co-passenger, realized that Baljinder Singh had died. Therefore, he was taken to DDU hospital at Delhi, where he was declared dead. In the postmortem report, the cause of death of the deceased was opined as "natural".

6. On perusal of the post-mortem report, age of the deceased was mentioned about 25 years/male and history given as road side accident on 16.12.1999 at about 8.00 pm. In the external injuries, it was mentioned as ante-mortem injury; abrasion 4 x 3 cm at left knee, rupture type; multiple abrasions; irregular shape, B/W size of 1 x 1 cm to 2 x 3 cm at outer aspect of left leg and left foot; 3 x 2 cm abrasion at right side of forehead. Cause of death was given as acute coronary insufficiency with old myocardial infarction of sixth type (natural death).

7. During trial, the doctor, who conducted the post-mortem, was examined as CW2, who during post-mortem examination made following observations:-

both side lungs were congested and edematous. All chambers of heart were full with blood. The weight of heart was 350 grams. There was old infarcted patch of 3 X 2 cm at left ventricle and antero inferior wall. All coronaries were thickened, hard and the lumen blocked upto 90%. A fresh clot detected at bifurcation of left coronary artery. Final cause of death was opined as acute coronary insufficiency with old myocardial infarction (silent death) which is considered a natural death. Time since death was 24 hours prior to post mortem.

8. The said CW2 further deposed that he had given his opinion as per the information given by the Investigating Officer in the inquest papers. He specifically stated that the documents were not made available to him regarding falling of the vehicle in a 400 feet deep ditch.

9. During the trial, the claimants had cited "Modis Text Book of Medical Jurisprudence and Toxicology" published by A.S. Pandya for N.M. Tripathi Private

Ltd. 164, Samaldas Gandhi Marg, Bombay-400002, wherein its 20th Edition of Third Impression 1980, written as under:-

Traumatic rupture of the heart which may be round, oval or star shaped is usually caused by a blunt weapon, by a carriage wheel running over the chest or by a fall from a height over a hard projecting surface. In such cases the heart is usually ruptured on its right side and towards its base, and the ribs and the skin over them are damaged. But in rare instances rupture of the heart may occur without leaving any external mark of violence or causing fracture of the ribs." In ventricular accident the aorta may be ruptured by intense compression of the chest with or without any signs of external injury to the chest wall or fracture of the ribs." Further at page no. 283 it is mentioned that it is not necessary that it causes immediate death and a case is reported wherein a boy aged about 9 years survived ten days after sustaining injury to the heart owing to his chest having been pressed against a wall by the back of a double bullock cart. No external mark of injury or fracture of the ribs was evident.

10. It is pertinent to mention here that the claim petition was filed u/s 163A of the Motor Vehicles Act, 1988 and the claimants were not required to prove that the accident was caused due to the rash and negligent driving of offending vehicle being driven by the respondent No. 2.

11. Keeping in view the peculiar facts of the case and on perusal of the record, it is established that deceased Baljinder Singh died due to accident which took place on 16.12.1999 by use of motor vehicle, i.e., Maruti Van bearing registration No. DL-8CA-1816.

12. Undisputedly, a criminal case was registered against the driver of the offending vehicle. The deceased was taken to the hospital at Solan, who referred him to the Government hospital. However, the deceased had died on his way back to Delhi.

13. The appellant/Insurance Company neither brought on record any material nor examined any witness to establish that the deceased was suffering from any old disease and had died due to the said disease.

14. Accident took place on 16.12.1999 at about 8.00 pm. The offending vehicle had fallen into 300-400 feet deep ditch, due to which he received injuries and succumbed to the injuries on 18.12.1999. Admittedly, as per post-mortem report, he had received ante-mortem injuries as noted in para-7 above. He was not even examined to ascertain whether any internal injury was caused to him. The cardiac arrest may be the result of the injuries sustained in the accident. It is evident that a fresh clot was detected at bifurcation of left coronary artery.

15. It is pertinent to mention here that respondent No. 1 Ajeet Kaur, mother of the deceased, had received the compensation amount and consumed the same. It is also admitted fact that she died on 17.09.2007. Father of the deceased was pre-deceased. Harvinder Singh and Bhupinder Singh, legal heirs of the Ajeet

Kaur, were impleaded during the pendency of the appeal. Both Harvinder Singh and Bhupinder Singh died on 10.12.2008 and 31.10.2013 respectively. Thereafter, legal heirs of Harvinder Singh were brought on record, however, legal heirs of Bhupinder Singh have not been impleaded. Moreover, there is no evidence on record that the properties/estate of Ajeet Kaur had been devolved upon the present legal heirs.

16. In view of the above discussion, I do not find any merit in the instant appeal, the same is accordingly dismissed. Statutory amount, if any, be released in favour of the appellant.