
(1977) 05 P&H CK 0001
In the Punjab And Haryana At Chandigarh
Case No : F.A.F.O. No. 356 of 1971

Nachbatar Kaar and Others	Vs	APPELLANT
State of Punjab and Another		RESPONDENT

Date of Decision : 13-05-1977

Acts Referred:

Motor Vehicles Act, 1939 — Section 110CC

Citation : (1977) ACJ 425

Hon'ble Judges : M.R. Sharma, J

Bench : Single Bench

Advocate : L.M. Suri, for the Appellant; S.K. Syal, for the Respondent

Judgement

M.R. Sharma, J.—This appeal is directed against the award made by the Motor Accidents Claims Tribunal, Patiala, dated August 27, 1971. Bus No. PNU 7732 was being driven towards Kharar from Chandigarh. Ajmer Singh deceased was coming on a bicycle from the side of Kharar town towards the Court premises located at that place. When he reached near the approach road of his village Ballo Majra, he gave a hand-signal and turned towards that road. It is alleged that the above mentioned bus was coming at a high speed and knocked him down. He was taken to the hospital where he breathed his last on the following day. Nachhatar Kaur Appellant, his wife, and her children filed a petition before the Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as the Tribunal) claiming damages to the tune of Rs. 1,50,000/-on the ground that the accident had occurred because of the negligence of the driver of the above said bus.

2. On the pleas raised by the parties, the learned Tribunal framed the following issues:

1. Whether the accident in this case took place due to the rashness and negligence of Bhagat Singh driver of bus No. PNU 7732?

2. To what amount the Petitioner is entitled to claim as compensation and from

whom ?

3. Relief.

The Tribunal gave somewhat a conflicting finding on issue No. 1. At one place he observed that the driver could not be absolved of the liability because he did not appear to have applied the brakes immediately, which he should have done in the normal course of business and so he was negligent. However, at another place towards the end of its judgment, it was observed that the deceased was mainly responsible for the accident because he might have moved to cross the road when the bus was about 10 yards away. After considering the whole matter, it dismissed the claim application filed by the Appellants. They have come up in appeal before this Court 3. I have gone through the evidence with the help of the learned Counsel for the parties. Rachan Singh (A.W. 5) stated that on the date of the accident he was present near the Courts at Kharar and was standing on the roadside. Nagina Singh (A.W. 6) was also there. An unknown person came on a cycle, gave a hand-single and turned towards the side of Ballo Majra on a small road which abuts the main road. From the side of Chandigarh, a bus came and the cyclist was run over by it. After the impact, the bus covered a distance of 20 Kadams and then stopped. At the time when the accident occurred, the cyclist was on his right hand side and was near the end of the road. To the same effect is the statement made by Nagina Singh (A.W. 6). The latter mentioned witness admitted in cross-examination that the distance between the cyclist and the bus was about 10/15 yards when the cyclist gave the signal to take a turn.

4. There is no dispute about the identity of the deceased and the bus involved in the accident. The only thing to be determined is whether, on the statements made by the witnesses, the bus-driver can be held to be negligent or not and if he is proved to be negligent, to what extent he was responsible for this accident ? In order to determine this, a Court has to take into consideration all the attendant circumstances including the place where the accident occurs. The Courts at Kharar are situated in the middle of the town though on the main road. The outer limit of Kharar town towards Mohali side lies at a distance of about half a mile from the town premises. When a driver of a heavy vehicle enters the limits of a town, he is expected to be doubly careful. But in the instant case the driver could stop his bus at a distance of about 20 Kadams or 30 yards after the impact. This shows that he was completely oblivious of the caution he was expected to take. It is also in evidence that the deceased gave a hand-signal before he crossed the road. At that time he was at a distance of about 10/15 yards away from the bus. In a situation like this, the accident could have been caused for two reasons only. Either the bus-driver did not care to see the signal or he was driving the bus at such a high speed that he could not stop it immediately by applying the brakes. In either case, his negligence stands established. As observed earlier, the learned Tribunal also noticed that the driver should have applied the brakes immediately which he did. After a careful consideration of the attendant circumstances. I am of the view that the accident

arose out of the negligence of the driver to a very large extent. The deceased had perhaps seen the bus coming because otherwise it would not have been necessary for him to give the hand-signal. If he pushed his bicycle in an attempt to cross the road after seeing the bus coming, he was also negligent to some extent. In the peculiar circumstances of the case, I hold that the deceased was negligent to the extent of 30 per cent. The Tribunal found that the deceased used to spend Rs. 1,000/- per annum on his wife and children. If the proportionate decrease is made in account of his own negligence, the family of the deceased would be deemed to have suffered a loss of Rs. 700/- per annum because of the negligent driving of the bus-driver. The deceased was only an agricultural labourer and, as such, the ends of justice would be properly met if his family is allowed an amount as compensation which would yield an interest of Rs. 700/- per annum. The Bank rate of interest is about 10 per cent per annum these days. In this situation, I award a lump sum of Rs. 7,100/- as compensation to the Appellants. They will also be entitled u/s 110CC of the Motor Vehicles Act, 1939, to have interest at the rate of 6 per cent per annum from the date they made the application upto the date on which this amount is paid to them. They will also be entitled to have their costs.