
(2011) 04 P&H CK 0227
In the Punjab And Haryana At Chandigarh
Case No : FAO No"s. 5533 and 5577 of 2010

National Insurance Co. Ltd.

APPELLANT

Vs

Sunita Devi and Others
 Sunita Devi and Others Vs
Ram Karan Pal and Others

RESPONDENT

Date of Decision : 21-04-2011

Acts Referred:

Citation : (2011) 04 P&H CK 0227

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Kannan, J.—In a fire incident at the Record Section of Civil Revision/FAO Branch of this Court on 30.1.2011, several files were burnt.

2. The Registry has reported that the file is not available and it is likely that the papers connected with the case have been consumed in fire. Learned Counsel for the Appellant has also not furnished copy of all the relevant papers connected with the case. The facts are being extracted from FAO No. 5577 of 2011, as the appeal arise out of a common impugned judgement.

3. Both the appeals are connected. FAO No. 5577 of 2010 is at the instance of the insurance company and FAO No. 5533 of 2010 is at the instance of the claimants seeking for enhancement of compensation. The insurance company was pleading in defence that the insured's vehicle had not been involved in the accident and that the FIR which had been lodged immediately contained no details of particulars of insured's vehicle and a lacuna was sought to be filled up by securing a statement of an alleged eye witness one month after the accident. The Tribunal still took the involvement of the vehicle as established by the fact that driver and the owner had admitted the involvement of the vehicle and the insurance company did not plead collusion between the claimants and Respondents No. 1 and 2. The insurance company did not even take steps to

secure the attendance of the driver or the owner before the Court for testing the statement already made. I cannot fault the finding of the Tribunal that the involvement of the insured's vehicle had not been established. I, therefore, dismiss the appeal filed by the insurer.

4. There is claim for enhancement of compensation at the instance of the claimants. The evidence was that the deceased was working in the shop of Ramesh Chander who had also come to the Court to give evidence about his employment and the fact that he had been paying Rs. 2200/- per month. It was also stated that he was also working as driver for him and whenever his services were availed when he used to go out of station, he would be paid Rs. 100/- per day. The Tribunal took the income to be Rs. 3000/- and proceeded to assess the compensation. Learned Counsel argues that the amount must have been taken in excess of Rs. 3000/-. In the absence of any better evidence, I find no reason to take a different view from how the matter has been dealt with by the Tribunal as regards the income. Learned Counsel points out that even while the Tribunal was applying the scales of compensation as provided by the Hon"ble Supreme Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , it had only awarded Rs. 10,000/- towards conventional heads of claim. I will make a marginal modification by providing for Rs. 5000/- towards the love and affection for each one of the three minor children and make an addition of Rs. 15,000/- with interest @ 6% from the date of petition till date the date of payment. The liability shall be in the same manner as determined by the Tribunal.

5. The award stands modified for the additional amount as referred to above. The appeal filed by the claimants in FAO No. 5533 of 2010 is allowed to the above extent. FAO No. 5577 of 2010 stands dismissed.

6. The amount of Rs. 25,000/- deposited shall stand released.