
(2006) 02 P&H CK 0037

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 2221 of 2000

National Insurance Company Ltd.

APPELLANT

Vs

Ajmer Singh and Others

RESPONDENT

Date of Decision : 15-02-2006

Acts Referred:

Citation : (2006) 144 PLR 274 : (2006) 3 RCR(Civil) 499

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Advocate : Neeraj Khanna, for the Appellant; Ravindra Jain, for the Respondent

Final Decision : Dismissed

Judgement

Viney Mittal, J.—This Judgment shall dispose of two appeals bearing F.A.O. Nos.2221 of 2000 and 2495 of 2000 as both the appeals have arisen out of a common award dated May 20, 2000 passed by the Motor Accident Claims Tribunal, Jagadhri (for short, "the Tribunal"). F.A.O. No. 2221 of 2000 has been filed by the Insurance Company challenging its liability to pay the compensation, whereas, F.A.O. No. 2495 of 2000 has been filed by the claimants claiming enhancement of compensation.

2. An accident has occurred on July 11, 1998 resulting in the death of Mahipal who was 20 years of age at the time of his death. A claim petition was filed by the parents of the deceased. It was claimed that the accident had occurred on account of the rash and negligent driving of Ram Kumar, respondent No. 1 who was driving the offending vehicle No. HP-17-4907. It was also claimed that Mahipal was working as a mason and was earning Rs. 4,500/-

3. The learned Tribunal, on the basis of the evidence available on the record, found that accident had indeed occurred on account of rash and negligent driving of Ram Kumar, driver of the offending vehicle. On this account, the claimants were held entitled to receive compensation because of the death of Mahipal. Mahipal was found to be 20 years of age at the time of accident. However, the

learned Tribunal came to the conclusion that there was no evidence to show that Mahipal was working as a Mason at the time of his death. Accordingly, he was taken to be casual labourer and his monthly income was assessed at Rs. 1,500/- per month. His dependency was assessed at Rs. 1,000/- per month. Keeping in view the fact that the claimants were the father, Ajmer Singh who was 50 years of age and mother Ajmero who was 45 years of age, a multiplier of 11 was applied. The compensation was assessed at Rs. 1,32,000/- which was held payable jointly and severally by the driver, owner and the insurance company alongwith interest at the rate of 12% per annum. A plea raised by the Insurance Company that the driving licence of the driver was fake, was rejected by the Tribunal holding that since there was a valid renewal of the aforesaid driving licence, therefore, the question of the issuance of the original driving licence being fake was irrelevant.

4. As noticed above, two appeals have been filed by the Insurance Company as well as the claimants, respectively.

5. I have heard the learned Counsel for the parties and have also gone through the records of the case.

6. In my considered opinion, there is no scope for interference in the present appeals.

7. As far as rashness and negligence of the driver is concerned, a positive finding of fact has been recorded by the learned Tribunal that Ram Kumar, driver of the offending vehicle was rash and negligent. The only question which arises for consideration is as to whether the Insurance Company is liable to pay the compensation.

8. It has been argued by the learned Counsel for the Insurance Company that the original driving licence issued to the driver was fake and therefore, a subsequent renewal, thereof would not confer any legitimacy upon the same. However, I find that in view of the law laid down in the case of National Insurance Co. Ltd. Vs. Swaran Singh and Others, , the mere absence, fake of invalid licence or disqualification of the driver for driving at the relevant time are not the relevant defences available to the insurance company. In this view of the matter, the plea raised by the Insurance Company cannot be accepted. The Insurance Company is thus, held liable to make the payment of compensation jointly and severally alongwith driver and owner with regard to the claim made by the claimants for enhancement of compensation. It is apparent that father of the deceased was 50 years of age at the time of accident, whereas, mother was 45 years of age. A multiplier of 11 has been applied keeping in view, the age of claimants, as has also been held by the Hon"ble Supreme Court of India in The Municipal Corporation of Greater Bombay Vs. Shri Laxman Iyer and Another, . In these circumstances, a multiplier of 11 applied by the Tribunal cannot be held to be inadequate or erroneous in any manner.

As a result of the aforesaid discussion, both the appeals are devoid of any merit

and the same are dismissed.