
(1993) 09 P&H CK 0016

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From Order No. 862 of 1985

New India Assurance Company Ltd. and Others

APPELLANT

Vs

Baldev Singh and Others

RESPONDENT

Date of Decision : 28-09-1993

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A, 110D

Citation : (1994) 1 ACC 428 : (1994) 106 PLR 593

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Advocate : L.M. Suri and Arun Kumar, for the Appellant; R.S. Cheema and Rajiv Trikha, for the Respondent

Final Decision : Dismissed

Judgement

Amarjeet Chaudhary, J.—This appeal has been jointly filed by the New India Assurance Company Limited and Krishan Lal, owner of the offending truck No. DSC-3405 against the award of Motor. Accident Claims Tribunal, Karnal dated 1.4.1985, which on two claim petitioners, viz; MACT No. 70 of 1983 filed by Baldev Singh etc. on account of the death of Bhupinder Singh and MACT No. 71 of 1983 filed by Smt. Shanti Devi and others on account of the death of Bhup Singh, in a vehicular accident which took place on 14.4.1992, had awarded a sum of Rs. 1,65,120/- and Rs. 1,05,600/- as compensation respectively.

2. It deserves mention that in both the claim petitions, the Insurance Company and owner of the offending truck were the respondents.

3. The issue before the Motor Accident Claims Tribunal was whether the accident was caused due to rash and negligent driving of truck No.OSC-3405. The Tribunal returned a categoric finding that the accident had occurred on account of the rash and negligent driving of the driver of the offending truck. In the said accident Bhupinder Singh and Bhup Singh had died.

4. The insurance Company and the owner of the offending truck filed FAO 862 of

1985 against the award in MACT No. 70 of 1983 filed by Baldev Singh etc. A perusal of the paper book reveals that the appellants have not challenged the award in regard to MACT No. 71 of 1983, filed by Smt. Shanti etc. The finding of the Tribunal with regard to the fact that the accident had taken place due to rash and negligent driving of the driver of the offending truck having not been challenged by the appellants, the said finding has become final. If the Court in this appeal comes to a different finding then that could amount to contradictory finding qua negligence in the judgment dated 1.4.1985 rendered in MACT No. 71 of 1983 filed by Smt. Shanti Devi and others.

5. In view of above discussion, the appellants are estopped to challenge the award. The F.A.O is dismissed. No order as to costs.