

(1983) 10 P&H CK 0083
In the Punjab And Haryana At Chandigarh

Oriental Fire and General Insurance Co. Ltd.	APPELLANT
Vs	
Baldev Singh and Others	RESPONDENT

Date of Decision : 27-10-1983

Acts Referred:

Motor Vehicles Act, 1988 — Section 96(2)

Citation : (1983) 1 ACC 271

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Judgement

S.S. Sodhi, J.—This is an appeal by the Insurance Company seeking to challenge the award of the Tribunal on grounds which it is now well settled are not open to it, namely, the findings on the issue of negligence and quantum of compensation payable to the claimants. It was held by the Supreme Court as far back in 1959 in *British India General Insurance Co. Ltd. Vs. Captain Itbar Singh and Others*, that the only defences open to the Insurance Company are those as mentioned in Section 96(2) of the Motor Vehicles Act. This cannot, however, suffice to dispose of the appeal as cross-objections filed by the claimants deserve consideration.

2. The facts relevant to this matter are that on October 31, 1974 Chanan Singh, deceased, was run over and killed by a truck JKN-8165. This happened on the Jalandhar-Pathankot Road, when the deceased was travelling thereon on his cycle. The truck had come from behind and hit into him.

3. It was the finding of the Tribunal that the accident was caused by the rash and negligent driving of the truck driver. A sum of Rs. 24,000/- was awarded as compensation to the claimants, they being his widow Smt. Karam Kaur and their two sons Baldev Singh and Asa Singh and daughter Harbans Kaur.

4. The claim put forth by the claimants in the cross-objections filed by them was for enhancement of compensation.

5. The evidence on record shows that Chanan Singh deceased, was 55 years of

age at the time of his death. He had retired from the Army where he had held the rank of Jamadar. He was being paid a pension of Rs. 110/-per month, which, of course, came to an end on his death. The evidence further shows that Chanan Singh, deceased, was engaged in cultivation of land. According to P.W. 4 Kartar Singh the brother of the deceased, they were both engaged in joint cultivation and they had 7 to 8 fields of land. The income of the deceased was stated to be about Rs. 1000/- per month from land. The land of the deceased continues to be available to the claimants and therefore, the loss that can be attributed to the death of the deceased would be only what could be ascribed to the labour of the deceased himself. Mr. L.M. Suri, counsel for the claimants here contended that even if the deceased was to be treated as an agricultural labourer, his income could not be computed to be less than Rs. 300/- per month. In his case, it was argued that some allowance also deserves to be made for his supervision. The stand, thus, taken by the counsel for the claimants was that the income of the deceased must be taken to be at least Rs. 400/- to Rs. 500/- per month inclusive of the pension which was being paid to him. In the circumstances it does indeed appear reasonable to take the income of the deceased to be so. After making an allowance for the amount that the deceased would have spent upon himself and other uncertainties of life it will be fair and just to take the loss to be at the rate of Rs. 300/- per month. Keeping in view not only the age of the deceased at the time of his death, but also the nature of the occupation he was engaged in, namely, cultivation of land, 10 may be taken to be a reasonable multiplier here. So computed, the compensation would work-out to Rs. 36,000/-. The amount payable to the claimants as compensation is accordingly enhanced to this figure, The claimants shall be entitled to the amount awarded along with interest at the rate of 12 per cent per annum from the date of the application to the date of the payment of the amount awarded.

6. In the result, the appeal filed by the Insurance Company is hereby dismissed; while the cross-objections are accepted to the extent indicated above. In the circumstances, however, there will be no order as to costs.