

(2005) 07 P&H CK 0045

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 527 of 1986

Oriental Insurance Company Ltd. and Another

APPELLANT

Vs

Narinder Kaur and Another

RESPONDENT

Date of Decision : 27-07-2005

Acts Referred:

Citation : (2006) 1 ACC 688 : (2006) 1 CivCC 423 : (2006) 142 PLR 682 :
(2006) 1 RCR(Civil) 55

Hon'ble Judges : Virender Singh, J

Bench : Single Bench

Advocate : Munishwar Puri, for the Appellant;

Final Decision : Dismissed

Judgement

Virender Singh, J.—Oriental Insurance Company insurer of truck No.PUC-5599) and Manjit Singh its owner have filed the present appeal against the impugned award of learned Motor Accidents Claims Tribunal, Patiala dated 20.12.1985 awarding a compensation of Rs. 1,50,000/- including Rs. 15,000/- as no fault compensation in favour of Narinder Kaur widow of Narinjan Singh, (since deceased) and her three minor children alongwith interest @ 12% p.a. from the date of the application till its realisation.

2. I have heard Mr. Munishwar Puri, learned Counsel for the appellants. However, no one has turned up for the claimant-respondents. Service of Karam Singh, the driver of the offending vehicle was dispensed with by this Court vide order dated 3.6.1987,

3. Mr. Puri has otherwise made a statement at the bar that the claimants have already received the entire amount of compensation and there is no appeal for enhancement,

4. I have heard Mr. Puri at length and have gone through the impugned award. Mr. Puri has not joined issue with regard to the negligence of the driver and instead confined his arguments with regard to quantum of compensation only

contending that it is on higher side. Strengthening his arguments the learned Counsel then contends that Narinjan Singh (since deceased) was of the age of 60 years at the time of death. He was a retired lecturer and was getting Rs. 933/- as pension. The learned Tribunal has assessed the annual dependency as Rs. 13,800/- and then applied the multiplier of 8 (total amount comes to Rs. 1,10,400/-). So, far as the income of the deceased is concerned, the learned Counsel submits that there is no evidence on the record to assess Rs. 800/- per month. Another grievance of the learned Counsel is that a sum of Rs. 40,000/- has been awarded in favour of the claimants on the ground that the deceased was doing the publication work and he had to publish four books in near future from which he could reasonably earn Rs. 40,000/-. This approach of the learned Tribunal, according to the learned Counsel, is not proper.

5. Another glaring defect pointed out is that the calculation is also not proper while assessing the annual dependency. The cut in pension calculated is Rs. 350/- and if multiplied by 12 comes to Rs. 4,200/-. Similarly the amount of income of Rs. 800/- is again multiplied by 12 which comes out to be Rs. 9,400/-. The total amount turns out to be Rs. 13,600/- and not Rs. 13,800/- as observed by the learned Tribunal. This irregularity also calls for modification in the quantum of compensation.

6. The learned Counsel has also shown his grievance against the multiplier of 8 applied by the learned Tribunal in this case contending that even this is also on higher side.

7. On the basis of the aforesaid submissions, the learned Counsel contends that the impugned award be modified by reducing the amount of compensation.

8. I have given my thoughtful consideration to the submissions made by Mr. Puri and have also gone through the evidence adduced by the claimants with regard to the income of the deceased. AW-2 Joginder Singh who is Honorary Secretary of Sikh Religion and Culture Academy, Patiala has stated that at the time of the death, Narinjan Singh was working as Office Secretary of the said Academy and was getting Rs.1,000/-per month as a honorarium. He proved the appointment letter Ex.A-2. He has also stated that Narinjan Singh was given extension for another six months on 24.3.1985. The resolution in this regard was also proved as Annexure A-3. Gurcharan Singh AW-3 who was Reader in the Department of Punjabi University, Patiala also deposed, on oath that after the retirement the deceased had started seriously devoting his attention to his research work and he had started writing four books from his manuscripts of Philosophy of Sikhism (different aspects). He further stated that at the time of his death, 60% of the work was already complete. He has also quoted the price of the books by assessment as Rs. 80/- to Rs. 100/- per book and then royalty from 15 to 20 per cent coming to the share of Narinjan Singh deceased. He has also proved the manuscripts a's Annexures A/4, A/5, A/6 and A/7 respectively.

9. Smt. Narinder Kaur AW-4 widow of the deceased has also stepped into witness

box and stated that her husband was getting Rs. 1,000/- per month from the Academy of Sikh Religion and Culture Patiala. He was getting Rs.933/- as pension from the State of Punjab. She has also stated that she is also getting Rs.550/- as pension. She further stated that her husband had completed a book on "cactus" which was lying in the Language Department, Government of Punjab, for approval of its publication.

10. The perusal of the aforesaid evidence adduced by the claimants leaves no room for doubt that the learned Tribunal has not calculated any amount of compensation against the record. In my considered view, there is no infirmity on any aspect in arriving at the conclusion with regard to the compensation including a sum of Rs. 40,000/- to be earned by the deceased in near future on account of publication of four books.

11. However, as pointed out by Mr .Puri there appears to be some fault in calculating the annual dependency as Rs. 13,800/-. It should have been Rs. 13,600/- (Rs.4200+ Rs.9400). There is thus difference of Rs.200/- per month and if multiplied by 8, turns out to be Rs. 1,600/-. As already stated by Mr. Puri that the entire amount of compensation has already been deposited, in my considered view, taking away a petty amount of Rs. 1,600/-, may be with interest, from the claimants after the lapse of 20 years would not be proper. Even otherwise, the learned Tribunal has also rounded off the figure to Rs.1,50,000/- whereas the exact calculation was Rs. 1,50,400/-. (Rs. 1,10,400+Rs.40,000/-). This fact also reduces down the difference from Rs. 1600/- to Rs. 1200/-. I. therefore, do not intend to disturb the award at all.

12. Resultantly, the present appeal filed by the Insurance Company fails and is hereby dismissed.