
(1996) 01 P&H CK 0124

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 469 of 1994

Paramjit Kaur and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 10-01-1996

Acts Referred:

Motor Vehicles Act, 1988 — Section 140, 166

Citation : (1996) 112 PLR 748

Hon'ble Judges : Sarojnei Saksena, J

Bench : Single Bench

Advocate : Rajiv Bhalla and Vikram Singh, for the Appellant; Vijay Pal Singh, AAG for Respondent Nos. 1 to 3, Rupinder Khosla and Sanjiv Pabbi, for the Respondent

Judgement

Sarojnei Saksena, J.—This is an appeal against the award dated October 4, 1993, of the Motor Accidents Claims Tribunals, whereby the claimants' claim for awarding compensation on account of death of Buta Singh is dismissed.

2. Paramjit Kaur is the widow of Buta Singh and claimants 2 to 5 are the children of deceased Buta Singh. These claimants filed Claim petition No. 11 of 1991 before the Motor Accidents Claims Tribunal, Patiala, alleging that Buta Singh was discharging the duty of conductor on Bus No.HR-07-2815 on June 8, 1991, which was being driven by Gurdev Singh respondent No.3. This bus belongs to Haryana Roadways, Kurukshetra Depot. On the fateful day it was going from Delhi to Amritsar, carrying a number of passengers. When the bus reached in the area of village Bhat Majra, another Bus No. PAB-8558 came from Sirhind side. Gurdev Singh respondent was driving this Bus No. HR-07-2815 rashly and negligently and at a very fast speed. He dashed his bus against the right side of Bus No. PAB-8558. As a result of this impact, Gurdev Singh's bus went to the right side of the G.T. road and hit against Sheesham trees. As a result of this accident, 15 passengers including the conductor died on the spot and few others sustained injuries. On that very day FIR No. 81 was lodged with the police. Claimants

claimed compensation for the death of Buta Singh against the respondents.

3. On being noticed, the respondents filed their separate written statements. The claimants filed rejoinder to their written statements. Issues were framed. Parties were directed to adduce evidence.

4. Paramjit Kaur examined herself. It was not disputed that Buta Singh died in this accident, but the manner of accident could not be proved by the claimants as at the time of accident they were not travelling in the said bus. They only filed copy of the FIR. About the accident only respondent-Gurdev Singh examined himself. The Claims Tribunal held that the claimants have failed to prove that the accident has occurred as a result of rash and negligent driving of either of these two buses. Thus, their claim petition was dismissed.

5. During arguments, the claimant-appellants' learned counsel made a prayer that an opportunity be given to the claimant-appellants to adduce evidence, to prove the rash and negligent act of any driver of the two buses, which resulted in the fateful accident. Respondents' counsel do not oppose this prayer.

6. It is a very hard case. The claimants are the legal heirs of deceased Buta Singh. They are demanding compensation for the death of Buta Singh from 1991 but till today they could not get anything either because of their negligence or because of the wrong advice given by the counsel, but on both these counts they cannot be allowed to suffer any more.

7. Hence, the appeal is partly allowed. The impugned award is set aside. The case is remanded to the learned Claims Tribunal to give an opportunity to all the parties to adduce their evidence in support of their pleadings and thereafter to decide this claim petition before commencement of the summer vacation. The parties are directed to appear before the Claims Tribunal on February 16, 1996.

8. Before parting with this appeal, another submission made by the appellants' counsel is required to be decided. Surprisingly enough the Claims Tribunal never passed any order u/s 140 of the Motor Vehicles Act, which is a mandatory provision. u/s 140 of the Act, the owner/owners of the vehicle involved in the accident are liable to pay compensation on account of "no fault liability" to the claimants. Whether the Insurance Company is liable to pay this amount to the Haryana Roadways is a question which is to be settled amongst themselves, but as per provisions of section 140 of the Act the Haryana Roadways-respondent No.2 is hereby directed to pay Rs. 25,000/- to the claimants on February 16, 1996.