
(2013) 09 P&H CK 0159

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order Nos. 5961 and 6203 of 2012 (O and M)

Pawan Kumar

APPELLANT

Vs

Jaswant Kaur and Others

RESPONDENT

Date of Decision : 10-09-2013

Acts Referred:

Citation : (2014) ACJ 2039 : (2014) 173 PLR 392

Hon'ble Judges : Nawab Singh, J

Bench : Single Bench

Judgement

Nawab Singh, J.—This judgment shall dispose of aforesaid two appeals, arising out of Award dated September 11, 2012 passed by Motor Accident Claims Tribunal, Patiala (for short the Tribunal"). FAO No. 5961 of 2012 has been filed by Pawan Kumar, owner of Four-wheeler (Canter) No. HP-63-2312 (for short "the offending vehicle") and FAO No. 6203 of 2012 has been filed by ICICI Lombard General Insurance Company, insurer of the offending vehicle. Gurjant Singh, aged 52 years, Supervisor in the Department of Punjab Urban Planning and Development Authority (PUDA), Patiala died in a road accident on October 19, 2010. The accident took place due to rash and negligent driving of the offending vehicle by Duni Chand-respondent. Gurjant Singh suffered multiple injuries. He was brought to Civil Hospital, Patiala, where, he succumbed to his injuries.

2. FIR No. 510 dated October 20, 2010 (Exhibit C/2) was registered in Police Station Sadar, Patiala under Sections 304A, etc. of the Indian Penal Code against the driver of the offending vehicle.

3. Post mortem examination (Exhibit C/3) was conducted upon the dead body of Gurjant Singh.

4. Widow, daughter and son of the deceased filed claim application u/s 166 of the Motor Vehicles Act, 1988 before the Tribunal.

5. The Tribunal on the basis of statement of Sukhdev Singh, Senior Assistant

(PW3) in the office of PUDA, Patiala and salary certificate (Exhibit PW3/A) held the monthly salary of the deceased at Rs. 28,806/-. The claimants were awarded compensation of Rs. 26,81,120/- along with interest at the rate of 9% per annum from the date of filing of claim application till its actual realisation. It was also held by the Tribunal that the amount of compensation shall be paid by the insurer, but it was given right to recover the same from the owner of the offending vehicle, because the offending vehicle was being plied in the State of Punjab, whereas, its route permit was for the State of Himachal Pradesh.

6. In the appeal (FAO No. 5961 of 2012) filed by the owner of the offending vehicle, learned counsel for the appellant has urged that despite the fact that the route permit was issued to ply the offending vehicle in the State of Himachal Pradesh and the accident took place in the State of Punjab, the insurer was liable to indemnify the loss caused by the offending vehicle. In support of this contention, reliance has been placed upon FAO No. 3726 of 2006 (United India Insurance Company Limited v. Subhash Chander and others,) decided on August 18, 2006, wherein, a Division Bench of this Court held that even if the offending vehicle did not have the requisite permit to ply the vehicle, the Insurance Company was liable to indemnify the loss caused by the vehicle. This was reiterated in National Insurance Company Ltd. Vs. Rajender Giri and Others, , where, the offending vehicle was given route permit for plying the vehicle in the State of Rajasthan, but the accident took place in the State of Haryana.

7. In view of the law discussed above, this Court is of the firm opinion that the Tribunal fell in error in granting the rights of recovery to the insurer against the owner of the offending vehicle.

8. In FAO No. 6203 of 2012, while challenging the Award, learned counsel for the Insurance Company has urged that the compensation has been awarded on higher side.

9. On perusal of the impugned Award, this Court has found that the amount of compensation has been determined keeping in mind the guidelines provided by the Hon'ble Supreme Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, .

10. In view of above, FAO No. 5961 of 2012 is accepted and the impugned Award is modified to the extent that the finding of the Tribunal granting right to the Insurance Company to recover the amount of compensation from the owner of the offending vehicle, is set aside. FAO No. 6203 of 2012 is dismissed. The amount of Rs. 25,000/- deposited by the appellant (FAO No. 5961 of 2012) as required u/s 173(2) of the Motor Vehicles Act, 1988 be refunded to him.