
(2001) 04 P&H CK 0076
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 955 of 1991

Pepsu Road Transport Corporation, Patiala	APPELLANT
Vs	
Joginder Kaur	RESPONDENT

Date of Decision : 19-04-2001

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2001) 2 CivCC 642 : (2001) 3 RCR(Civil) 166

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. Raman Mahajan, for the Appellant; Mr. Sanjiv Gupta, for the Respondent

Judgement

R.L. Anand, J.—Pepsu Road Transport Corporation, Patiala (hereinafter called "the Corporation") has filed the present appeal against Smt. Joginder Kaur widow of Mohinder Singh, Amritpal Singh and Inderjit Singh, both minor sons of Mohinder Singh and Sarab-jit Kaur, minor daughter of Mohinder Singh and Smt. Harbans Kaur, mother of Mohinder Singh deceased by adding Jaspal Singh, driver of the bus, and it has been directed against the award dated 2.5.1991 passed by Motor Accident Claims Tribunal, Sangrur, Camp at Barnala, vide which the Tribunal awarded a sum of Rs. 1,60,000/- by way of just compensation to Joginder Kaur, Amritpal Singh, Inderjit Singh and Sarahjit Kaur along with interest at the rate of 12% per annum from the date of the filing of claim petition i e. 1.8.1988, It may be mentioned here that during the pendency of this appeal Smt. Joginder Kaur has expired. Her LRs. are already on the record and thus there was no necessity to inplead the LRs of Smt. Joginder Kaur.

2. The claim petition before the Tribunal was filed by Smt. Joginder Kaur, Amritpal Singh, Inderjit Singh, Sarbjit Kaur and Harbans Kaur against the Corporation and Jaspal Singh, driver of the offending bus, who claimed compensation to the tune of Rs. 5,00,000/-on account of the death of Mohinder Singh, who was aged about 40 years at the time of accident. The accident took

place on 15.3.1988 when deceased Mohinder Singh was driving truck No. HRN-9230 and was coming from Ludhiana and was going towards Sirsa (Haryana). Charanjit Singh was the cleaner of truck, At the time of accident, Ram Singh, father of the deceased, and four other persons were also sitting in the truck. At about 10,30 p.m. when the truck reached at Sheikha crossing in the area of Barnala, a bus bearing No. PIG-8210 belonging to respondent No. 1 Corporation, driven by respondent Jaspal Singh came speedily in a rash and negligent manner from the left hand side and hit the truck. The truck turned turtle on its right side at a distance of 8/10 Karams and its driver fell under the truck and was crushed. Later on the truck was brought to standing position with the help of some persons and two cranes. Ram Singh and other persons also received minor injuries. Charanjit Singh cleaner lodged FIR and the deadbody of Mohinder Singh was removed in the truck to Civil Hospital. Barnala. The case of the claimants is that they were dependent upon the income of the deceased who was earning Rs. 5,000/- per month by driving the truck.

3. Notice of the claim petition was given to the respondents and it was contested only by the Corporation which filed the reply and denied the allegations of the claimants. All the material averments were denied including the one that the claimant/petitioners are the LRs of deceased Mohinder Singh and that the deceased was earning Rs. 5,000/- per month.

4. From the pleadings of the parties, following issues were framed by the learned Tribunal :-

"(1) Whether the passenger bus No. PJG-7210 belonging to the P.R.T.C. of Barnala Depot being driven by Jaspal Singh respondent collided against the truck No. HRN-9230, being driven by Mohinder Singh deceased at about 10,30 P.M. on March 15, 1988 at Bheikha Road Crossing, Barnala ? OPP

(2) Whether the accident in question between the truck No. HRN-9230 and the passenger bus No. PJG-7210 occurred due to rash and negligent driving on the part of the bus driver Jaspal Singh ? OPP

(3) Whether the claimants-petitioners are the depend-ents of Mohinder Singh deceased ? OPP

(4) Whether the death of Mohinder Singh occurred due to the injuries sustained in the accident between the truck No. HRN-9230 and passenger bus No. PJG-7210? OPP

(5) What compensation, if any, the claimant-petitioners are entitled to recover from the respondents on account of the death of Mohinder Singh ? OPP

(6) Whether the claim petition is bad on account of the non-joinder/mis-joinder of the parties ? OPR

(7) Relief."

5, The parties led evidence and on the conclusion of the proceedings it was

concluded by the Tribunal that the accident had taken place due to the negligence of respondent No. 2 Jaspal Singh. Resultantly, issues No, 1,2 and 4 were decided in favour of the claimants and against the respondents of the claim petition. It was also decided under issues No, 3 and 5 that claimants were the LRs and dependents of the deceased. While awarding compensation the Tribunal held in para No. 10 of the award as follows :-

"Coming to the quantum of compensation, no documentary evidence has been produced by the petitioners as to how much was the income of the deceased, The bare statements of PW2 and 3 that the deceased used to earn Rs. 5,000/- per month cannot be made the basis of his income as such. The deceased, being a driver of the truck, he cannot be expected to earn atleast Rs. 1200/- per month. If the deceased spent Rs. 350/- per month on his own maintenance he must be sparing Rs. 850/- per month for petitioners No. 1 to 4 for their maintenance and household expenses. In these circumstances, a sum of Rs. 10,000/- per annum can easily be determined as the multiplica and looking to the age of the deceased which was only 40 years, a multiplier of 16 can easily be allowed for determining the amount of compensation. Accordingly it comes Rs. 1,60,000/-. Respondent No. 2 was the driver of respondent No. 1 and respondent No. 1 being his employer is, therefore, liable to pay the aforesaid compensation amount to petitioners No. 1 to 4. Both the issues as such are, therefore, decided in favour of the petitioners 1 to 4 and against respondent No. 1."

6. Finally the Tribunal awarded a sum of Rs. 1,60,000/- in favour of petitioners No. 1 to 4 only, besides interest @ 12% per annum which was to be calculated with effect from the date of filing of the claim petition i.e. 1.8.1988 till payment.

7. Not satisfied with the award, the present appeal by the Corporation.

8. I have heard the learned counsel for the parties and with their assistance have gone through the record of this case.

9. In my opinion the compensation which has been awarded to the claimants is on the lower side. But as there is no appeal from the side of the claimants, therefore, I am not inclined to enhance the compensation. The challenge in this appeal has been given from the side of the Corporation on the grounds that the accident did not take place due to the negligence of respondent- driver Jaspal Singh and that the compensation has been awarded by the Tribunal on the higher side. Both these contentions of the appellant-Corporation have to be overruled. The accident has been proved from the statement of Ram Singh PW3. He has supported the allegations of the claim petition and has entirely attributed the negligence to respondent-driver Jaspal Singh. The statement of PW3 Ram Singh finds corroboration from the Post Mortem Report Ex-Pi which shows that the deceased received number of injuries such as abrasions, lacerated wounds and his ribs were also broken. His spleen was also found ruptured. The FIR in this case has also been proved through the statement of Balbir Singh who appeared as PW1. On these issues it was submitted by the learned counsel for

the appellant that the dealer of the truck involved in the accident has not been produced and that PW3 Ram Singh is an interested witness. I do not subscribe to the submission raised by the learned counsel for the appellant. Ram Singh is a natural witness. His statement has been corroborated by the medical evidence. It is no ground to discard his statement simply on the ground that in the criminal case, registered against Jaspal Singh driver, he has been acquitted. We all know that the judgment of a criminal Court determining the guilt or innocence of the driver is neither conclusive nor binding on the Tribunal dealing with the claim petition, the Tribunal has to come to an independent finding with regard to innocence. Moreover, civil case is decided on the preponderance of evidence, whereas in criminal case strict proof is required on the part of the prosecution. Thus, I am inclined to affirm the findings of the Tribunal on issues No. 2 and 4.

10. With regard to the quantum of damages it is proved on the record that the deceased was working as a truck driver at the time of accident. The Tribunal has assessed the monthly income of the deceased at Rs. 1,200/-, which, in my opinion, is already on the lower side. During the days of accident the driver of a truck could easily earn Rs. 2,000/- per month. After deducting the personal expenses of the deceased and after applying a multiplier of 16 and also keeping in view the age of the deceased, there was a scope of further enhancement of compensation for the Tribunal, but the Tribunal awarded only Rs. 1,60,000/-, which, in my opinion, is on the lower side. But since there is no appeal from the side of the claimants, therefore, I am inclined to affirm the compensation awarded by the Tribunal in favour of the claimants.

Resultantly, there is no merit in this appeal, which is hereby dismissed with the observations that the compensation now shall be paid in equal shares to Amritpal Singh, Inderjit Singh and Sarbjit Kaur along with interest @ 12% per annum, which shall be calculated from the date of the filing of claim petition till payment. The compensation shall be paid to the said claimants within two months from today. The amount falling to the share of the minors shall remain deposited in a scheduled bank till they attain the age of majority. The appellant shall also pay costs of Rs. 2,000/- to claimants No. 2 to 4.

11. Appeal dismissed.