

(1994) 09 P&H CK 0103
In the Punjab And Haryana At Chandigarh

Prem Chand

APPELLANT

Vs

Sukhdev Singh

RESPONDENT

Date of Decision : 13-09-1994

Acts Referred:

Motor Vehicles Act, 1988 — Section 110

Citation : (1995) 1 ACC 452

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Judgement

Amarjeet Chaudhary, J.—The Motor Accident Claims, Tribunal Patiala, on a claim petition u/s 110 of the Motor Vehicles Act filed by the claimants had awarded a sum of Rs. 15,300/- with 6% interest as compensation from the date of the claim petition on account of death of Brij Lal who died in a road accident on 25.2.1974.

2. Being dissatisfied with the impugned award, the claimants have filed the present appeal praying for enhancement of the compensation.

3. In the case in hand, the death of the deceased is not in dispute. The only dispute is with regard to the manner in which the accident had taken place.

4. The Counsel for the appellants contended that while awarding a compensation of Rs. 15,300/- the Tribunal had not taken into consideration the age of the deceased who was 32 years at the time of his death.

5. The Counsel further argued that the accident had been caused due to rash and negligent driving of the driver of the offending bus which stood proved the record. Despite that it was held by the Tribunal that it was a case of contributory negligence in which the liability of Sukhdev Singh, driver of the offending vehicle was fixed to the extent of 1/4th.

6. I have considered the submissions of the learned Counsel for the appellants and perused the evidence on record.

7. The Motor Accident Claims Tribunal had observed in the impugned argument that the deceased was entering the main road from the link road joiner on the left side while proceeding from Rajpura towards Chandigarh. While he was just entering, the left side, the bus over-ran him. The Court has also seen the photographs which leave no doubt that the cycle of the deceased was lying underneath the bus on the left side of the road. In view of this fact, it can be safely concluded that the Tribunal had erred in holding the deceased liable for negligence to the extent of 75 percent. In case of the driver of the offending bus had taken due care and precaution, the unfortunate tragedy would have been averted. As such, it is held that the driver of the offending vehicle as well as the deceased were equally liable for the accident i.e. in the ratio of 50:50.

8. It has come in the evidence that the income of the deceased was Rs. 9,000/-, 10,000/- annually. The annual income of the deceased can be determined to be Rs. 9,000/-, for the purpose of calculating compensation. By deducting 1/3rd as personal expenditure, the annual dependency of the claimants on the deceased is worked out to be Rs. 6,000/-. Keeping in view the age of deceased, a multiplier of 16 can be applied. By applying the multiplier for 16, the total amount of compensation comes to Rs. 96,000/- (Rs. 6000 x 16). Being a case of contributory negligence, the claimants are held to be entitled to Rs. 48,000/- with 12% per annum interest from the date of the claim petition. Out of the compensation awarded by this Court, Lachho Bai, the widow of the deceased shall be paid Rs. 24,000/- while each of the minor claimants shall be paid Rs. 4800/-. The share of the minors shall be deposited in some nationalised Bank and they shall be entitled to withdraw the same on attaining their age of majority. The compensation already awarded shall be adjusted out of the compensation awarded by this Court.

9. The appeal stands allowed to the extent indicated above. No Order as to costs.