
(2008) 01 P&H CK 0045
In the Punjab And Haryana At Chandigarh

PRTC

APPELLANT

Vs

Surji Devi and Others

RESPONDENT

Date of Decision : 29-01-2008

Acts Referred:

Motor Vehicles Act, 1988 — Section 163A, 166, 173

Citation : (2008) 2 PLR 794 : (2008) 2 RCR(Civil) 71

Hon'ble Judges : S.S. Saron, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.S. Saron, J.—This appeal has been filed u/s 173 of Motor Vehicles act, 1988 ("Act" for short) against the award dated 08.02.2006 passed by the learned Motor Accident Claims Tribunal, Chandigarh ("Tribunal" for short), whereby the claim petition filed by the claimants-respondents has been accepted partly with proportionate costs and a sum of Rs. 2,10,000/- awarded as compensation to claimant-respondent No. 1, which is payable by the appellant-Corporation and respondent No. 3 (Driver) jointly and severally. The claimant-respondent No. 1 has also been held entitled to receive interest at the rate of 6% per annum from the date of filing the claim petition i.e. 11.10.2004 till its realization. Besides, a sum of Rs. 50,000/- has been ordered to be paid to the claimant-respondent No. 1 in cash and the remaining amount of compensation awarded to her along with interest has been ordered to be deposited in the shape of FDR fetching maximum rate of interest in some Nationalized Bank branch for a period of three years giving liberty to the claimant to withdraw the interest every month.

2. The claim petition was filed by Surji Devi widow of Rajbir Singh and Pardeep Kumar, her son, u/s 166 of the Act claiming compensation of Rs. 5.00 lacs on account of the death of Seema, in a motor vehicle accident with the bus of the appellant-Corporation. On 28.09.2004 Seema (deceased) was riding on a bicycle to her house situated in Sector 52, Chandigarh. On the road dividing Sector 51 and 52, Chandigarh, a bus of the appellant-Corporation came from Mohali side. It

was being driven by Avtar Singh (Respondent No. 3), in a rash and negligent manner. As a result of the accident, Seema fell and suffered injuries. She succumbed to her injuries the same day. FIR No. 36 dated 28.09.2004 was registered at Police Station Sector 36, Chandigarh. The deceased was 16 years of age and was working as a maid servant. She was earning Rs. 4,000/- per month.

3. Learned Counsel appearing for the appellant has submitted that there has been a misreading of evidence on record. It is submitted that Avtar Singh (respondent No. 3), driver of the bus, appeared before the Tribunal as RW1. He deposed that on 28.09.2004 he was driving the bus at a normal speed and on the correct side. In the meanwhile, mother of the deceased, who was sitting on the carrier of the bicycle suddenly jumped down, which unbalanced the bicycle, which the deceased Seema was riding. On account of the imbalance caused, a car which was coming from the opposite side, hit the bicycle. Seema fell on the road and her bicycle came under the bus, which was driven by Avtar Singh (respondent No. 3)

4. It is submitted that the accident did not take place on account of the rash and negligent the driver in the manner as alleged. It is also contended that the compensation awarded is on the higher side and excessive inasmuch as there is no evidence to show that Seema was working as a maid servant and was earning. Therefore, it is submitted that the Schedule of the Act to Section 163A is liable to be applied. The income of non-earning member in terms of the schedule to the Act is assessed as Rs. 15,000/- per annum. Therefore, it is submitted that in any case, if any compensation was to be awarded, the annual income was liable to be restricted to Rs. 15,000/- per annum and the dependency worked out on the basis of the same.

5. After giving any thoughtful consideration to the matter, I find no merit in the contentions raised by the learned Counsel for the appellant. The learned Tribunal has taken into account the FIR that was registered and produced in evidence as Ex. P2. Besides it was observed that during investigation it was found that the accident had occurred due to the rash and negligent driving of Avtar Singh (respondent No. 3). Ramesh Kumar had appeared in the witness box before the Tribunal as PW1. His statement was accepted and it was held that he accident had taken place due to the rash and negligent driving of Avtar Singh. With regard to the statement of Avtar Singh, RW1, it was held that there was no corroboration to his sole testimony. Accordingly, in view of the statements of Ramesh Kumar, PW1 and Surji Devi, PW2 (claimant-respondent No. 1) and the documents produced on record i.e. death certificate Ex. P5, post mortem report Ex. P6 and copy of FIR Ex. P2 it was held that death of Seema had occurred in a motor vehicle accident caused due to the rash and negligent driving of the bus of appellant-corporation.

6. As regards the compensation payable, it may be noticed that the learned Tribunal observed that the deceased was earning about Rs. 1,800/- per month and that she was able to do the work of a maid servant. It was observed that she

must have been spending 1/3rd of her income on her self and was contributing a sum of Rs. 1,200/- to her family. In this manner, the annual dependency was worked out to Rs. 1,200/- x 12 = Rs. 14,400/-. The deceased was an unmarried girl, aged 16 years and the multiplier of 10 was applied and the compensation payable was worked out to Rs. 1,44,400/-. It was observed that after marriage of Seema (deceased) full benefit of dependency could not have been granted to the parents. Therefore, it was taken that dependency of the claimants would be reduced to Rs. 800/- per month and the annual dependency was worked out to Rs. 800 x 12 = Rs. 9,600/-. On this, multiplier of 6 has been applied. This worked out to Rs. 9,600 x 6 = Rs. 57,600/-. A sum of Rs. 8,400/- was awarded to Surji Devi for funeral expenses and last rites of deceased Seema. In all, the claimant-respondent No. 1 Surjit Devi was held entitled to compensation of Rs. 2,10,000/-.

7. As regards, the contention of the learned Counsel for the appellant that the annual income of the deceased is to be taken as Rs. 15,000/- per annum in terms of the Schedule to the Act and monthly income of the same would be Rs. 1,250/- per month, it may be noticed that the learned Tribunal has assessed the monthly income as Rs. 1,800/-. Besides, a multiplier of 10 has been applied and thereafter taking into account the marriage prospects of the deceased, a multiplier of 6 has been applied which has been applied on the basis of case law. Besides as a matter of fact it was observed that the deceased was able to do the work of a maid servant.

8. The income of Rs. 1,800/- per month was worked, out on the basis that an unskilled worker would earn. In the circumstances the findings and conclusions reached at by the learned Tribunal would not warrant any interference by this Court in appeal, filed on behalf of the appellant-Corporation, which is admittedly the owner of the offending vehicle.

Consequently, there is no merit in this appeal and the same is accordingly dismissed.