
(1998) 07 P&H CK 0147

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 892 of 1991

Raghubir Singh

APPELLANT

Vs

Tilak Raj and Others

RESPONDENT

Date of Decision : 03-07-1998

Acts Referred:

Motor Vehicles Act, 1988 — Section 140(2)

Citation : (1999) 1 ACC 27 : (1999) ACJ 966 : (1998) 120 PLR 570 : (1999) 1 RCR(Civil) 177

Hon'ble Judges : G.C. Garg, J

Bench : Single Bench

Advocate : R.K. Malik, for the Appellant; Vinod Chaudhary and Gopal Mittal, for the Respondent

Final Decision : Allowed

Judgement

G.C. Garg, J.—Dalbir Singh brother of the present appellant died in a road accident which took place on 9.2.1989 between a tempo and a truck. The claimant-appellant filed a petition u/s 166 of the Motor Vehicles Act claiming compensation for the death of his brother Dalbir Singh.

2. Learned Tribunal on a consideration of the matter assessed the dependency of the appellant on the deceased at Rs. 200/- per month. It applying a multiplier of 16, awarded a total sum of Rs. 38400/r as compensation for the death of Dalbir Singh by its award dated 22.4.1991.

3. Dissatisfied with the quantum of compensation, the claimant filed this appeal seeking enhancement of compensation.

4. Learned counsel for the appellant submitted that the compensation awarded by learned Tribunal is on the lower side and deserves to be enhanced.

5. After hearing learned counsel for the parties and on a consideration of the matter. I am of the opinion that the compensation awarded by the learned

Tribunal is quite just and fair and no interference with the award of the learned Tribunal is called for as far the dependency and the multiplier are concerned.

6. Learned counsel for the appellant, however, submitted that though the accident in this case had taken place on 9.2.1989 and at that time under the provisions of the Motor Vehicles Act, 1988, a sum of Rs. 25,000/- was payable in cases of "no fault liability" yet having regard to the provisions of Section 140(2) of the Act which came into force on 14.11.1994 and provides for a payment of Rs. 50,000/- on account of no fault liability in death cases, the appellant is also entitled to that much amount. In support of his submission learned counsel placed strong reliance on a Division Bench judgment of this Court in Smt. Mosmi and Anr. v. Ram Kumar and Ors. (1991) 100 P.L.R. 349 and Anr. judgment of learned Single Judge of this Court in Smt. Sumitra Devi and Others Vs. Danesh Kumar and Others, . Learned counsel for the respondents, on the other hand relied upon a Single Bench judgment of this Court in Surinder Kaur Vs. Lakhbir Singh and Others, and contended that a claimant is entitled to that much amount which is admissible under the provisions of the Act in force at the relevant time. In the latter case, the question as raised by learned counsel for the appellant herein did not find favour with the learned Single Judge.

7. Smt. Mosmi and another (supra) was a case where a person had died in accident which took place on 16.5.1989 when the Motor Vehicles Act, 1939 was in force and in view of the provisions of Section 92-A of that Act, a sum of Rs. 15,000/- was payable to the claimant on account of no fault liability in death case and thus the Tribunal had in that case awarded a sum of Rs. 15000/- under the said clause. The Division Bench of this Court on a consideration of the matter and following the view taken by a Division Bench of the Kerala High Court in United India Insurance Co. Ltd. Vs. Padmavathy and Others, wherein it was held that the award for no fault liability in a motor accident which occurred prior to the coming into force of Motor Vehicles Act, 1988 should be in tune with the amount fixed by the said Act, awarded a sum of Rs. 25,000/- under no fault liability clause of the 1988 Act. In Sumitra Devi's case (supra), a learned Single Judge of this case elaborately considered this aspect of the matter. In the matter before his Lordships, the person had died in an accident which took place in the year 1991 and under the provisions of Section 140 of the Motor Vehicles Act, 1988, a claimant was entitled to a sum of Rs. 40,000/ on account of no fault liability in a death case and the learned Tribunal had also granted this much amount under the above clause. Learned Single Judge of this court in the reported case, however, enhanced this amount to Rs. 50,000/-. It was observed by his Lordship that no doubt the provisions of Section 140(2) as amended by the Amending Act of 1994 were not made retrospective but the intention of the legislation was obvious. His Lordship in unequivocal terms observed that this was a beneficial legislation and should be interpreted in favour of those persons for whose benefit this amendment is made. In any case, while sitting singly I am bound by the view taken by a Division Bench of this Court in Mosmi's case (supra). Thus in view of the judgment of the Division Bench of this Court in the

above case, I am of the opinion that the claimant is entitled to a sum of Rs. 50,000/- under the no fault liability clause in the case of death of his brother Dalbir Singh as payable under the provisions of Section 140(2) of the Motor Vehicles Act. The amount of Rs. 50,000/- on account of no fault liability being higher than the one granted by the learned Tribunal as compensation, shall only be payable to the appellant minus the amount if any already received. The award of the learned Tribunal is modified to the extent indicated above and the appeal is disposed of in the above terms. No costs.