
(2014) 04 P&H CK 0210
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 3525 of 1999 (O&M)

Raj Rani

APPELLANT

Vs

Rajesh Kumari

RESPONDENT

Date of Decision : 11-04-2014

Acts Referred:

Citation : (2014) 04 P&H CK 0210

Hon'ble Judges : Lisa Gill, J

Bench : Single Bench

Advocate : Ashok K. Arora, Advocate for the Appellant; R.K. Bashamboo, Advocate for Respondent No. 5 -Insurance Company, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Lisa Gill, J.—This appeal has been filed by the widow, minor son and the mother, respectively, of deceased-Som Nath Arora. Four claim petitions had been decided vide impugned award dated 28.07.1999. The present appeal deals only qua the claim of the above-mentioned appellants i.e., the legal heirs of deceased-Som Nath Arora.

2. It has been brought on the record that on 15.12.1995, the deceased-Som Nath Arora, owner of three-wheeler bearing registration No. HR39-2209 was sitting inside the three-wheeler, which was parked near the bus stand at village Majra Piao. A truck bearing registration No. HNR-4771 being driven by one Krishan Lal (since deceased) being driven rashly and negligently, was proceeding towards Jind from Hansi and when it reached near the crossing at village Majra Piao, it first struck against a fitter Rehra which had just stepped on the crossing of a side road thereafter, the truck driver then lost control of the same and struck against the three-wheeler as well as three persons sitting therein. In the said accident, three persons died including Som Nath Arora and one Vidya Devi suffered injuries. It has come on the record that said Som Nath Arora died on account of injuries suffered by him in the said accident.

3. The learned Tribunal had held the present claimants entitled to an amount of Rs. 3,31,000/- as compensation by taking the net income of deceased-Som Nath Arora to be at Rs. 2,000/- per month and that dependency of the claimants had been taken at Rs. 1500/- per month and the multiplier of 18 had been applied. A sum of Rs. 2000/- was awarded as funeral expenses and Rs. 5,000/- towards loss of consortium had been awarded.

4. It is submitted by learned counsel for the appellants that the amount of compensation awarded is on the lesser side and some amount should be awarded on account of future prospects of the deceased as he was only 28 years of age at the time of death. It is also submitted that liability should be fixed upon respondents No. 4 and 5 completely as the owner and the driver of fitter Rehra had not been made party to the claim petition.

5. Keeping in view the judgment of Hon''ble Supreme Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , multiplier of 17 is, in fact, required to be applied in this case. However, as there is no appeal by the Insurance Company, I am not inclined to interfere in the same and the multiplier of 18 is maintained.

6. However, learned Tribunal has erred in assessing the income of the deceased to be at Rs. 2000/- per month only and the dependency was taken at Rs. 1500/- per month only. It has come in the testimony of PW1, Bhagwan Devi and PW2 Raj Rani that deceased used to earn Rs. 5,000/- per month. The income of the deceased can be taken at Rs. 3,000/- per month and but the deduction of the amount of installment is not justified. Thus, the income of the deceased is to be taken at Rs. 3,000/- per month and applying the deduction by 1/5th on account of personal expenses, the amount comes to Rs. 2400/- per month. Applying the multiplier of 18, the income works out to be at Rs. 5,18,400/-. The funeral expenses are assessed at Rs. 2500/- and Rs. 10,000/- towards loss of consortium.

7. The deceased was admittedly 28 years of age, therefore, an increase of 50% is made out on account of future prospects in view the observations of Hon''ble Supreme Court in Rajesh and Others Vs. Rajbir Singh and Others, , which comes out to be at Rs. 2,59,200/-.

8. The claimants are, thus, entitled to a total sum of Rs. 7,90,100/- as compensation with interest at the rate of 6% per annum from the date of filing of the petition till realization.

9. Nothing has been pointed out by the learned counsel for the appellants to show that the finding of the learned Tribunal in respect to the negligence of the fitter Rehra'' driver is erroneous. The averment that he was not made a party to the proceedings and thus, the entire liability should be fixed upon respondents No. 4 and 5, is misconcieved. Therefore, this plea is rejected. The liability as held by the learned Tribunal to the extent of 50% of respondents No. 4 and 5 is correct.

10. Disposed of in the abovesaid terms.