**(1970) 01 P&H CK 0042**

**In the Punjab And Haryana At Chandigarh**

**Case No :** F.A.O. No. 150 of 1968

Rajinder Kaur and Others — APPELLANT

Vs

Union of India (UOI) — RESPONDENT

**Date of Decision :** 23-01-1970

**Acts Referred:**
Motor Vehicles Act, 1988 — Section 110A

**Citation :** (1970) ACJ 84

**Hon'ble Judges :** C.G. Sum, J

**Bench :** Single Bench

**Advocate :** L.M. Suri, R.M. Suri and P.N. Garg, for the Appellant; Laxmi Grover, for the Respondent

**Final Decision :** Allowed

## Judgement

C.G. Sum, J.—What amount is payable as compensation for the death in a motor accident of Shri Harcharn Singh Bedi, husband of Appellant No. 1 and father of minor Appellants Nos. 2-5, is the only question that has to be decided in this appeal filed by the dependants of the deceased. In their application u/s 110-A of the Motor Vehicles Act, the Appellants had claimed a sum of rupees two lakhs as compensation but the Motor Accidents Claims Tribunal for the Union Territory-of Chandigarh has been pleased to award them a sum of Rs. 30,000/- only as damages, or compensation. The findings of the Tribunal that the accident was due to the rash and negligent driving of the driver of the: motor vehicle belonging to the Union Territory of Chandigarh or that they were liable to pay the amount decreed, have not been challenged in any cross objection or separate appeal filed by or on behalf of the Respondent Union Territory.

2. The evidence examined in the case is not very clear or convincing as to what the deceased was doing for a living on the date of the accident i.e. 9th July, 1967. He is said to have been about 45 years of age at that time. In their application, the Appellants had metionedthat the deceased''s employment by a contractor which had brought about a sudden increase in his monthly income had

 

taken place about two months earlier. The employer was examined in Court but there are valid grounds for doubting the genuineness of the document that he produces in support of this sudden improvement in the income of the deceased. This document is further inconsistent with the position taken up by the Appellants in their application. A contractor who could afford to have such well-paid employees would be expected to have better maintained accounts than a mere ledger with entries on only one page and blank spaces all over where such enteries could be interpolated. A contractor Who could afford to pay a monthly salary of Rs. 700/-to one of his employees would be assessed to income tax and the department would not easily let him off unless he was maintaining his accounts in a regular manner. Moreover the deceased is said to have been assessed to income tax and copies of assessment order or treasury receipts with regard to deposit of income tax may have furnished better evidence about his income at the time of his death.

3. Anyhow, the deceased is said to have been paying rent, electricity and water charges in respect of his residential accommodation in Chandigarh in an amount running almost into three figures. He was maintaining a family comprised of about six members and educating all his children, the eldest of whom was said to be in a College. Under the circumstances, the learned Tribunal may appear to have been justified in assuming that the monthly income of the deceased could not have been more than Rs. 300/-per month. The deceased was a mere: matriculate and had not specialized in any technical line, trade or profession. He was only an unskilled wage-earner and had no-regular employment and security of tenure on his last job. According to the statement made by the widow, the deceased had this income until about a few months before Jus death. The story about the sudden increase in his income because of his employment by Sukhdev Singh contractor has rightly been disbelieved. The deceased had to do a lot of running about and his personal expenses have also been fairly assessed by the learned Tribunal at about Rs. 100/-[per month. The loss of income to the dependants has therefore been taken to be about Rs. 200/- per month. No just exceptions can be taken to these calculations of the learned Tribunal.,

4. The deceased''s age at the time of the death was given as 4445 years though no reliable evidence has been examined in that respect Most of the members of the deceased''s family are said to have lived up-, to the ripe old age of 80 years or more. Even this part of the case could have been better proved by copies of entries in the registers of births and deaths. My attention has however been drawn to some recent rulings which take the view that average life expectancy in India should in such cases be taken as 70 years. A Division Bench, ruling of the Allahabad High Court in Shiv Prasad Gupta v.S. At. Sabir Zaidi 1967 A.C.J. 321, has been cited in this connection. This ruling was followed in two Bench decisions of this Court reported as Mrs. Savitri Devi and Anr. v. The Malerkotla Bus Service (P) Ltd. and Ors. 1969 P.L.R. 306 : 1969 A.C.J. 173, and Sukhdev Singh v. Pepsu Rood Transport Corporation Patiala 1969 A.C.J. 197. The same view may appear to have been taken in Gomathi Ammal and Ors. v. Remchandran Pillai and Anr.,

but the deceased in that case had already attained the age of 3 years at the time of his death in an accident In Madhya Pradesh State Road Transport Corporation, Bhopal and Anr. v. Munnabai and Anr. 1967 A.C.J. 214 the average life expectancy ''was taken to be 75 years. There was however evidence in all such cases that the mem-ben of the deceased''s family were generally long lived. In the present case the average longevity of life of other members of the deceased''s family or the evidence about the age of the deceased at the time of the accident is not very convincing. The learned Tribunal has calculated the amount of compensation as if the deceased could be expected to have lived for another 15 years or so. In view of the rulings mentioned above with regard to expectation of longer living spans, the Appellants could, in my opinion, be awarded compensation as if the deceased could be expected to have lived for another 20 years. On this assumption, the quantum of compensation would go up to a substantial amount and the interest earned on that amount at most reasonable rates would secure to the family the approximate income which was being spent on them by the deceased. This lump-sum payment would also compensate them for any hopes of brightening up of future prospects of the deceased. I however see no reason why the normal cut or deduction because of this lump-sum payment should not be made at the rate adopted by the learned Tribuual. The Appellants'' counsel has relied on Punjab State v. Hardeep Kaur and Ors. 1967 A.C.J. 243, Prem Singh and Ors. v. Tika Ram and Ors. 1970 P.L.R. 42, Narain Devi v. Dev Raj and Ors. 1967 A.C.J. 344 and Himachal Government Transport Simla v. Joginder Singh and Anr. 1969 A.C.J. 237 in this con nection but the circumstances of each case have to be kept in mind as w,as observed in Oriental Fire & General Insurance Co. Ltd., New Delhi and Ors. v. ChuniLal and Anr.10 and some of the rulings cited above. On the basis of 15 years expectation of life the amount of compensation had been calculated to be Rs. 36,000/- and a cut of 16% had been imposed by the learned Tribunal. If we take the expectation of life about 20 years then the amount of total compensation would come to Rs. 48,000/- and a deduction of Rs. 8,000/- for the lump-sum payment could be made on pro rate basis.

5. The appeal is partly accepted and the amount of total compensation payable to the Appellants is raised to Rs. 40,000/-. The share of each Appellant shall be taken to have been enhanced by a sum of Rs. 2,000/-. Parties are left to bear their own cost

Appeal partly accepted

 