

(2005) 07 P&H CK 0060

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 1100 of 1987

Ram Kumar and Others

APPELLANT

Vs

Haryana Roadways and Others

RESPONDENT

Date of Decision : 21-07-2005

Acts Referred:

Motor Vehicles Act, 1988 — Section 92A

Citation : (2006) 4 ACC 554 : (2006) ACJ 1118 : (2006) 1 CivCC 461 : (2005) 141 PLR 809 : (2006) 1 RCR(Civil) 53

Hon'ble Judges : Ashutosh Mohunta, J

Bench : Single Bench

Advocate : Rajneesh Narula, for the Appellant; D.S. Nalwa, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

Ashutosh Mohunta, J.—The claimants have filed the present appeal for enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal dated 8.9.1987 vide which a compensation of Rs. 15,000/- was awarded to the claimants u/s 92-A of the Motor Vehicles Act on account of death of Bala Rani and her minor daughter Reena Devi.

2. Briefly the facts of the case are that on 25.2.1987 at about 7.00 P.M. Bala Rani along with her infant girl child Reena Devi who were sitting on the carrier of a cycle, which was being driven by her son Vikram and was going from Chhajpur Khurd to village Chhajpur Kalan. The cycle was being driven by Vikram on the correct side and when they reached the Chhajpur crossing, Vikram slowed down his cycle and gave a signal with his right hand indicating that he was to turn towards Chhajpur Kalan which was on the right hand side. At that time, a Haryana Roadways Bus, bearing registration No. HRQ-4452 which was coming from the Panipat side i.e. the same side on which the cycle was going and being driven by Mukhtiar Singh, respondent No. 4 rashly and negligently, struck against the cycle as a result of which Bala Rani and her infant daughter Reena

Devi died on the spot. Vikram who was riding the cycle suffered injuries.

3. The claimants who are the husband of Bala Rani as well as 5 other minor children, have filed the claim petition wherein they have claimed compensation for the deaths of Bala Rani as well as Reena Devi to the tune of Rs. 3,50,000/-. It was averred in the petition that Bala Rani was earning a sum of Rs. 1500/- per month by doing the work of tailoring and stitching.

4. Reply to the claim petition was filed by the respondents, in which it was admitted that the accident took place. However, Mukhtiar Singh, the driver of the Haryana Roadways Bus averred that the accident has taken place due to negligence of the cyclist and he was not responsible for the accident. Thus the question in the present case is whether Bala Rani and Reena Devi had died in an accident with Bus No. HRQ-4452 due to rash and negligent driving of bus driver, Mukhtiar Singh, and if so then how much amount of compensation, the claimants are entitled to ?

5. The claimants in order to support their case, examined PW-1 Ram Kumar, PW-2 Kartar Singh and PW-3 Vikram. PW-2 Kartar Singh stated that at about 7.00 P.M. on 25.2.1987, while he was coming from his fields, he had halted at Chhajpur Khurd bus stand to take water and to relax, that in the meanwhile Vikram cyclist was seen coming from the side of village Nimbri. He has further stated that Bala Rani and infant child Reena Devi were sitting on the carrier of the cycle and Vikram Singh was going on the left side of the road. It was further stated by this witness that Vikram turned to the right hand side after giving a signal by hand and while he had reached the middle of the road, a Haryana Roadways bus, bearing registration No. HRQ-4452 which was coming from village Nimbri and was being driven in rash and negligent manner, struck against the cycle and as a result of which Bala Rani and her daughter were died on the spot. Vikram, who was riding the cycle, also appeared as PW-3 and stated that he had given a signal with his right hand for turning to the right hand side and at that time, the offending vehicle was at a distance of 100 yards. It is further submitted that the bus came straight and struck against the cycle as a result of which, his mother and infant sister died. Both the witnesses were cross-examined at length by the counsel for the State and the respondents have tried to make much capital with regard to the time of the accident. RW-1 Mukhtiar Singh, who is the driver of the Haryana Roadways bus also appeared in the witness box and stated that it was the cyclist, who was at fault as the cyclist took a sudden turn towards the right hand side without giving any signal. One RW-2 Dalbir Singh stated that he was sitting in the front seat of the bus and said that the accident had taken place due to negligence riding of the cyclist and not the bus driver and thus the bus driver is not responsible.

6. After going through the evidence on record, it is clear that when Vikram who was riding the cycle, he had given a signal, at that time the bus was approximately 100 yards away. There was sufficient time for the bus driver to slow down and apply brakes as the distance of 100 yards is good enough to take

a evasive action. Moreover, the bus had struck against the cycle from the rear portion, which shows that it is the bus driver who is responsible for the accident.

7. Even assuming that the bus was at high speed at 80/100 k.m. per hour still 100 yards is sufficiently long distance to stop the bus and to take evasive action in case any cyclist or pedestrian is crossing the road even without giving signal. In the present case, the cyclist had given a signal before turning and the headlights of the bus were on and it was 100 yards away. Therefore, in these circumstances, it is held that the accident took place because of the rash and negligent driving of Mukhtiar Singh, driver of the bus.

8. The next question that arises in the present case is as to what amount of compensation the claimants are entitled to. It has come in the evidence of Ram Kumar PW-1, husband of deceased Bala Rani that the deceased used to do the work of tailoring and stitching. He has stated that she used to earn a sum of Rs. 50/- to 60/- per day i.e. Rs. 1,500/- per month. However, in the statement of Ram Kumar, her income is mentioned as Rs. 700/-. Apart from the statement of Ram Kumar, there is also a statement of Kartar Singh PW-2 who had stated that his wife had got suits stitched from the deceased and she used to earn approximately Rs. 15/16 per kurta/piece. It can easily be assumed that the deceased earned a sum of Rs. 900/-. If one third is deducted towards the expenses then the total dependency of the claimants was Rs. 600/- per month which comes to Rs. 7200/- per annum. Bala Rani was 35 years of age at the time of her death. She had five minor children and therefore, in these circumstances, I am inclined to apply a multiplier of 15. Accordingly, claimants are entitled to compensation of Rs. 1,08,000/- on account of death of Bala Rani.

9. As far as the death of the minor child Reena Devi is concerned, it would be appropriate to award a lump sum amount of Rs. 75,000/-. The entire amount of compensation shall be apportioned in equal shares between all the claimants. The claimants shall also be entitled to interest at the rate of seven and a half per cent instead of 12 percent, as awarded by the Tribunal. In Tamil Nadu State Transport Corporation Ltd. Vs. S. Rajapriya and Others, . The Hon''ble Supreme Court of India has held that taking note of the prevailing rate of interest in bank deposits, the interest is liable to be fixed at the rate of seven and a half per cent per annum.

10. The entire amount shall be paid by the respondents after deducting the amount already paid. The claimants shall be entitled to the interest from the date of filing of the claim petition, till realisation. The judgment of the M.A.C.T., Karnal is modified to the extent above