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**(1994) 03 P&H CK 0090**  
**In the Punjab And Haryana At Chandigarh**

Rameshwari Devi and Others

APPELLANT

Vs

Balbir Singh and Others

RESPONDENT

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**Date of Decision :** 24-03-1994

**Acts Referred:**

**Citation :** (1994) 2 ACC 624

**Hon'ble Judges :** Amarjeet Chaudhary, J

**Bench :** Single Bench

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## Judgement

Amarjeet Chaudhary, J.—This appeal is directed against the award of Motor Accident Claims Tribunal, Gurgaon dated 17.10.1979 dismissing the claim petition.

2 The issue before the Tribunal was whether the accident took place due to rash and negligent driving of respondent No. 1, which was decided against the claimants. The Tribunal by taking into consideration the dependency of the claimants on the deceased at Rs. 256/- per month and by applying multiplier of 15 assessed the claim to the extent of Rs. 47,700/- as compensation. Since the claimants had claimed only Rs. 25,000/- they were held entitled to Rs. 25,000/- but the Tribunal had granted no compensation in view of the finding that the accident was not caused due to rash and negligent driving of respondent No. 1.

3. During the pendency of the claim petition, the claimants filed an application for the amendment of the same and claimed Rs. 3 lacs as compensation.

4. The case of the claimants is that the accident in question took place on 29.5.1978 near village Bamna Khera on Faridabad-Palwal-Hodal Road at about 5.15 a.m. On receipt of a call regarding fire in Dal Mill at Hodal, the fire engine left Faridabad and was on its way to Hodal. From the opposite direction truck No. DHG 2394 which was being driven by Balbir Singh, respondent No. 1, was coming at a high speed almost in the middle of the road. The driver of the fire engine No. PNG 2660, Mr. Amar Singh tried to avoid the collision, but the offending truck came straight and struck on the right side of the fire engine near

the driver seat killing Rishal Singh, Fireman, who was ringing the bell and was occupying the seat behind the driver and also injured driver Amar Singh Sub Fire Officer, S.K. Sharma another Driver, Om Prakash and Chaman Lal. The fire engine was also completely damaged. Rishal Singh, deceased was thirty eight years of age and was getting Rs. 475.50 ps. per month as salary while working as Fireman. He left behind his wife Smt. Rameshwari Devi, aged 35 years, two daughters Urmila aged 15 and Sarla aged 10 years, a son Sudhir Kumar, aged 6 besides his parents Ude Singh aged 80 and Khilian aged 78 years.

5. The case of the claimants before the Tribunal was that the accident in question took place due to rash and negligent driving of Balbir Singh, driver of offending truck and even though the compensation could have been claimed to the extent of Rs. one lac, but they restricted it to Rs. 25,000/- as they were unable to pay the Court fee on the full amount of compensation.

6. Balbir Singh, respondent No. 1 and Sarwan Singh, respondent No. 2 had filed the written statement to the claim petition. The plea taken is that Sarwan Singh was the owner of the truck and Balbir Singh was the driver. Some time before the accident, the driver of the truck had parked it on the Kacha portion of the road on the extreme left side of the road and after putting on parking lights and locking the truck, both of them had gone to nearby pond to answer the call of nature. The fire engine was alleged to have been driven rashly and negligently. It struck the parked truck causing damage to it. On the basis of the pleadings of the parties, the Tribunal had framed the following issues:

1. Whether the accident took place due to rash and negligent driving by the respondent?

2. To what amount of compensation is the petitioner entitled and from whom?.

In this case, the accident is not in dispute. The dispute is only with regard to the manner in which the accident was caused.

7. From the perusal of the paper book, it is revealed that photographs Ex. P. 2 to Ex.P. 6 were taken after the accident. It is observed that the left wheels of the offending truck were on the Kacha portion of the road while the right wheels were on the pacca road. It appears that the driver of the offending truck No. DHG 2394 took the truck on the other side of the road after the accident to avoid the obstacle in the traffic. This is how the truck has been shown on the examine left side of the Kacha portion of the road. Balbir Singh driver had also sustained some injuries and was treated in the out patient department of the hospital on 29.5.1978. In view of this, the presence of driver Balbir Singh at the spot cannot be denied, rather it proves that he was sitting in his truck. In the instant case, the damage to both the vehicles could be caused only when there was head-on collision. As such this Court is of the view that the accident was caused due to rash and negligent driving of both the vehicles.

8. In this case, the Tribunal had assessed the income of the deceased at Rs.

400/- per month. Out of this amount of Rs. 400/-, the Tribunal after deducting 1/3rd as his personal expenditure and by applying the multiplier of 15, had assessed the claim to the extent of Rs. 47,700/- as compensation, but the claimant were held entitled to Rs. 25,000/- as they had claimed only Rs. 25,000/-. However, no compensation was awarded in view of the finding that the accident was not caused due to rash and negligent driving of respondent No. 1.

9. As mentioned in the earlier part of the judgment, the claimant had filed Civil Misc. Application No. 4234-CII of 1988 for amendment of claim petition thereby claiming Rs. 3,00,000/- as compensation for the death of Rishal Singh. The application is allowed and the amended claim petition is taken on record.

10. It has been proved on record that the deceased was 38 years of age at the time of death. Taking the age of the deceased in view and following the ratio of judgment rendered in Lachhman Singh and Ors. v. Gurmit Kaur and Ors. 1979 PLR 1, I am of the considered view that it is a fit case in which a multiplier of 16 would be a suitable multiplier.

11. The deceased having a large family to support, must be spending Rs. 300/- per month on his family out of his monthly income of Rs. 400/- per month and as such the annual dependency of the claimants would be Rs. 3600/-. By applying the multiplier of 16, the total amount of compensation to which the claimants are held entitled to comes to Rs. 57,600/-. The claimants are also held entitled to the interest at the rate of 12% per annum from the date of filing of the claim petition till its realisation. Since the accident was caused due to rash and negligent driving of both the vehicles, the claimants would be entitled to half of the compensation out of the aforesaid amount which comes to Rs. 28,800/-. The widow and parents would be entitled to get compensation of Rs. 10,000/- and Rs. 5,000/- respectively. The remaining amount of compensation would go to the minor children of the deceased in equal shares. The share of the minor children shall be deposited in a Nationalised Bank in a fixed deposit which shall be payable to them on attaining their majority.

The appeal is allowed in the terms indicated above.

No order as to costs.