

(2006) 07 P&H CK 0050
In the Punjab And Haryana At Chandigarh

Rupinder Kaur and Others

APPELLANT

Vs

Himachal Road Transport Corporation and Another

RESPONDENT

Date of Decision : 12-07-2006

Acts Referred:

Citation : (2006) 4 ACC 64

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Judgement

Viney Mittal, J.—This judgment shall dispose of two first appeals being F.A.O. Nos. 823 and 996 of 1987 as both the appeals have arisen out of an award dated April 30, 1987 rendered by the Motor Accident Claims Tribunal, Ropar. Whereas F.A.O. No. 823 of 1987 has been filed by the claimant-appellants claiming further enhancement, FAO No. 996 of 1987 has been filed by Himachal Road Transport Corporation, owner of the offending vehicle.

2. An accident took place on January 19, 1986 at about 9.30 a.m. on Kharar-Kurali Road, village Padiala, Police Station, Kurali. Harinder Singh Mann, who was practising Advocate, was driving his car No. CHC-9398 and going towards Kurali side on Kharar-Kurali Road. However, when the aforesaid car driven by Harinder Singh Mann was passing by bus No. HID 8526 owned by Himachal Road Transport Corporation, driven by Basant Ram, driver, the two vehicles collided and as a result thereof, the car got turned turtle and fell into ditches on account of which all the occupants of the car including deceased, Harinder Singh Mann, received injuries. Harinder Singh Mann was removed to P.G.I, and ultimately succumbed to the aforesaid injuries on January 25, 1986.

3. The claim petition was filed by Mrs. Rupinder Kaur, widow of Harinder Singh Mann and his two children, Shailinder Singh Mann and Navneet Singh Mann and his mother, Satwant Kaur. It was claimed by the claimants that the accident in question had taken place on account of rash and negligent driving of the bus driver, Basant Ram, and, as such, the claimants were entitled to compensation.

4. The claim petition filed by the claimants was contested by the aforesaid respondents. The factum of accident was admitted. However, it was claimed that the accident had taken place on account of the fact that the car being driven by deceased, Harinder Singh Mann, was being driven by him rashly and negligently and had struck against the right portion of the bus.

5. The learned Tribunal, on the basis of the evidence available on the record, held that both the drivers of the aforesaid two vehicles i.e., bus driver as well as deceased, Harinder Singh Mann, were negligent in driving. Contributory negligence of Harinder Singh Mann was assessed to the extent of 1/4 whereas the negligence of bus driver was held to the extent of 3/4. In these circumstances, the claimants were held entitled to receive compensation to the extent of the aforesaid 3/4 on account of the negligence of the bus driver.

6. The Tribunal further assessed that Harinder Singh Mann, deceased at the time of his accident was carrying on his legal practice and was earning about Rs. 2,000 per month. As per the statement made by the claimant-Rupinder Kaur (widow of Harinder Singh Mann), it was observed that she has stated that her husband used to spend Rs. 1,000 upon himself and was contributing Rs. 1,000 to the family from the profession. Additionally, Harinder Singh Mann was supervising his agricultural land and the Tribunal found that on account of the death of Harinder Singh Mann, his agricultural income had decreased considerably. Thus, the claimants were held entitled to Rs. 1,44,000 on account of professional income of Harinder Singh Mann, Rs. 1,20,000 were assessed as compensation on account of loss of agricultural income; Rs. 7,500 were awarded towards treatment given to Harinder Singh Mann, whereas Rs. 7,500 were awarded on account of expenditure towards last rites. In this manner, a sum of Rs. 2,80,000 was awarded as compensation to the claimants. They were also held entitled to interest on the aforesaid amount.

7. As noticed above, the claimants have approached this Court for enhancement of compensation, whereas Himachal Road Transport Corporation has filed the connected appeal for challenging the award of the Tribunal.

8. I have heard Mr. P.S. Thiara, learned Counsel appearing for the claimants and Mr. Neeraj Khanna, Advocate appearing for Himachal Road Transport Corporation and with their assistance have also gone through the record of the case.

9. Mr. P.S. Thiara, learned Counsel appearing for the claimants at the outset inform the Court that during the pendency of the present appeal, appellant No. 1, Smt. Rupinder Kaur has expired. Similarly Navneet Singh Mann son of Harinder Singh Mann (appellant No. 3) has also expired. Thus, FAO No. 823 of 1987 survives only qua Shailinder Singh Mann.

10. Mr. Thiara has contended that the professional income of Harinder Singh Mann has been assessed on the lower side and, therefore, the award of compensation by the Tribunal was inadequate. Mr. Thiara has also contended that there was absolutely no justification for the Tribunal to hold that there was any

contributory negligence and, therefore, there was absolutely no warrant for deducting compensation to the extent of V share, which was awarded to the claimants.

11. On the other hand, Mr. Neeraj Khanna, learned Counsel appearing for Himachal Road Transport Corporation has argued that findings recorded by the Tribunal that the bus driver, Basant Ram, was in any manner negligent is contrary to the record inasmuch as the evidence on the record duly reflects that it was Harinder Singh Mann who was entirely negligent in driving the car and, therefore, the accident in question had taken place on his negligence. Mr. Khanna has argued that the compensation awarded to the claimants was on the higher side inasmuch the evidence on the record did not show that Harinder Singh Mann had any professional income.

12. I have duly considered the rival contentions of the learned Counsel for the parties. In my considered view, there is no scope for interference in either of the appeals.

13. Learned Tribunal has taken into consideration the entire evidence available on the record. On the basis of the aforesaid evidence a positive finding of fact has been recorded that bus driver, Basant Singh was driving the vehicle rashly and negligently. Similarly a finding of fact has been recorded that Harinder Singh Mann was also driving the car negligently. Nothing has been pointed out by the learned Counsel for the parties that the aforesaid findings recorded by the learned Tribunal suffer from any infirmity or are contrary to the record. In my considered view, the learned Tribunal has rightly observed that the contributory negligence of Harinder Singh Mann could be assessed to the extent of 1/4. The aforesaid findings recorded by the learned Tribunal are, thus, upheld.

14. With regard to the quantum of compensation, learned Tribunal has rightly taken into consideration the statement of P.W. 7 Rupinder Kaur claimant, widow of the deceased who had stated that her husband used to practise on legal side at Fatehgarh. It has further been stated that Rs. 2,000 used to be earned by him from the aforesaid practice. On the basis of the aforesaid statement, learned Tribunal has rightly come to the conclusion that Rs. 1,000 could be treated to be contribution by the deceased to the family from his professional income. Similarly, taking into consideration the statement made by P.W. 1 Jagjit Singh, who was carrying on the business of Commission Agent, the Tribunal has rightly come to the conclusion that there was a loss of agricultural income after the death of Harinder Singh Mann. Consequently, the aforesaid loss of income has also been taken into consideration.

15. In view of the aforesaid discussion, I do not find any merit in either of the appeals. The assessment of compensation held by the learned Tribunal is wholly appropriate and justified.

16. Both the appeals are, consequently, dismissed.