
(1984) 09 P&H CK 0078
In the Punjab And Haryana At Chandigarh

Savita Sharma and Another	Vs	APPELLANT
J.N. Sharma and Another		RESPONDENT

Date of Decision : 10-09-1984

Acts Referred:

Citation : (1985) 1 ACC 235 : (1986) ACJ 497

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Judgement

S. S. Sodhi, J.—The challenge in appeal here is to the dismissal of the claim for compensation filed by the widow and minor children of N.K. Sharma deceased, who was killed in a road accident on the Nangal-Ropar road at about 7 p.m. on November 1, 1975.

2. According to the claimants, N.K. Sharma deceased and Gautam Sharma were proceeding towards Ropar on Motor Cycle when the respondent J.N. Sharma came from behind at a very fast speed on his Motor Cycle and while trying to overtake, got the two motor cycles entangled as a result of which both N.K. Sharma and Gautam Sharma were thrown down and killed. The blame for this accident was attributed wholly to the respondent J.N Sharma.

3. The respondent J.N. Sharma on his part denied that there had been any accident between his motor cycle and that of the deceased. The version put-forth by him being that the deceased and his companion were killed when on being blinded by the head light of a jeep coming from the opposite direction, the motor cycle of the deceased struck against a tractor trolley going ahead.

4. A plea was also raised by the respondent that all the relations of N.K. Sharma deceased had given it in writing to the police that the accident had occurred by chance and not with the motor cycle of J.N. Sharma and consequently no one was to be blamedts it.

5. The Tribunal came to the finding that the claimants had failed to prove that the accident had been caused by the rash and negligent driving of respondent

J.N. Sharma, It is this finding which the claimants now assail.

6. The case of the claimants rests upon the testimony of A.W. 5 Mohan Singh. He deposed that he was proceeding towards Ropar when he saw a motor cycle trying to overtake another and in doing so, it came and dashed against the motor cycle going ahead. The motor cycle coming from behind was being driven by the respondent J.N. Sharma. Both the persons on the motor cycle in front were killed at the spot. He also deposed that there was no obstruction on the road at the time of the accident.

7. The other important piece of evidence brought on record by the claimants are the photographs Exhibits P.B., P.S., P.O. and P.E. These photographs show the position of the two motor cycles involved in the accident and also the position of the deceased lying dead on the road.

8. Turning to the respondents' side, there is the testimony of R.W. 3 J.N. Sharma, who deposed that when he reached near village Ahmadpur at about 7 p.m., on November 1, 1975, he saw a jeep coming from the opposite direction and there was a tractor trolley going ahead. He applied the brakes of his motor cycle on account of which it slipped and he fell down about 20 feet behind the tractor trolley. In the meanwhile another motor cycle driven by Gautam Sharma came from behind and struck against the tractor trolley as a result of which both he and N.K. Sharma were killed at the spot. A positive statement was made by him that his motor cycle did not strike against the other motor cycle, that is, of N.K. Sharma deceased. To corroborate this testimony, R.W. 1 Chaudhary Ram was examined who narrated a similar version and claimed to have witnessed this accident while returning from Ghanauli on his way to Malikpur.

9. The other testimony to note is that of A.W. 2 Dr. K.K. Kapoor, who deposed that the respondent J.N. Sharma, had come to him for medical treatment on November 1, 1975. He had multiple injuries and was given treatment as an outdoor patient.

10. The circumstances of this case have a significant tale to tell. A reference to the photographs Exhibits P.B. and P.C. would show both the motor cycles lying fallen on the road right close to each other. Seeing the position of the two motor cycles, it cannot be accepted that they had come to be so close to each other without the one hitting the other. It would be pertinent to note here that according to the respondent J.N. Sharma, it was after he had fallen from his motor cycle that the motor cycle of the deceased came and struck against the tractor trolley going ahead. If this was so, the two motor cycles could not have fallen at the same place. The motor cycle of the deceased should have been found lying some distance ahead from that of the respondent. Further, there is no damage to the motor cycle of the deceased to indicate any impact between it and any tractor trolley or any other vehicle.

11. Turning, now to the evidence of A.W. 5 Mohan Singh, it would be seen that he came forth with a straightforward account of the accident. He was not shown

to have any motive or other reason to depose in the manner in which he did, throwing the blame for the accident upon the respondent J.N. Sharma. R.W. 1 Chaudhary Ram, on the other hand, was clearly a witness interested in respondent J.N. Sharma. On his own showing, he had been getting his engine repaired from J.N. Sharma since the past several years. It is also interesting to note that while R.W. 3 J.N. Sharma had deposed that he was not admitted in any hospital for the injuries he sustained in this accident, Chaudhary Ram stated that he used to visit J.N. Sharma in hospital when he was admitted there. On the face of it, this witness had merely come forth to seek to help the respondent by supporting his version of the accident. As for J.N. Sharma himself, besides the fact that he would obviously be interested in deposing in his own favour, his version suffers from the circumstantial infirmities as pointed out earlier, for which the counsel for the respondents had no explanation to offer.

12. Great reliance was sought to be placed on the writing Exhibit R.A. with a view to show that the claimants stood barred thereby from imputing negligence to J.N. Sharma. No value can., however, be attached to this writing as neither the person making this statement was produced nor the person who is said to have recorded it. There is, at any rate, no suggestion that this writing was ever signed by any of the claimants or that the persons who had signed it were witnesses to the occurrence.

13. Considering the circumstances of the case in their totality in the light of the evidence on record, there can be no escape from the conclusion that the accident here must be held to have been caused by the rash and negligent driving of the respondent J.N. Sharma.

14. Coming now to the issue of compensation, the evidence shows that Narinder Kumar Sharma, deceased, was only about 33 years of age at the time of his death. He was employed as a Manager in the Markfed Cement Pipe Plant at Ropar and his emoluments were over Rs. 900/- per month. Considering the age and position of the deceased in service, it is reasonable to assume that had he lived, there were prospects of further advancement in his career too. The claimants are the young widow of the deceased and their two minor children, the eldest of whom was only four years old.

15. Keeping in view here the principles laid down by the Full Bench in Lachhman Singh v. Gurmit Kaur 1979 PLR 16 would obviously be the appropriate multiplier to be applied in this case and the loss deserves to be taken at Rs. 9000/- per annum. This would work out to Rs. 1,44,000/-.

16. The claimants are accordingly hereby awarded Rs 1,44,000/- as compensation, which they shall be entitled to along with interest at the rate of 12 per cent per annum from the date of the application to the date of payment of the amount awarded. Out of the amount awarded, a sum of Rs. 30,000/- each shall be payable to the two minor children of the deceased and the balance to his widow. The respondents shall be jointly and severally liable for payment of the

amount awarded.

17. In the result, this appeal is hereby accepted with costs. Counsel's fee Rs. 500/-