

(1984) 03 P&H CK 0107

In the Punjab And Haryana At Chandigarh

Case No : F.A.F.O. No's. 424 of 1978 and 326 of 1979

Shanta Nagpal and Others

APPELLANT

Vs

Bhagwan Singh and Others

RESPONDENT

Date of Decision : 23-03-1984

Acts Referred:

Citation : (1986) ACJ 376

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

Bench : Single Bench

Advocate : Munishwar Puri, for the Appellant; Harbhagwan Singh, A.G., P.S. Duhan, D.A.G., V.K. Bali, Malkiat Kaur and S.S. Ahlawat, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Sodhi, J.—A government jeep with S.C. Nagpal, General Assistant to the Deputy Commissioner, Karnal and H.L. Narula, the District Food and Supplies Controller, Karnal being the occupants thereof and Niranjana Singh its driver was proceeding towards Panipat from Karnal on the Grand Trunk Road, when a Haryana Roadways bus came from the opposite direction and hit into it, resulting in the death of all the three occupants of the jeep. This happened on April 21, 1973 near the Haryana Armed Police Stadium.

2. The Tribunal came to the finding that the accident here had been caused entirely due to the rash and negligent driving of the bus driver. A sum of Rs. 1,63,000/- was awarded as compensation to the mother, widow and two minor sons of S.C. Nagpal, deceased, Rs. 41,000/- to the widow and three sons of H.L. Narula, deceased; while the widow and five children of Niranjana Singh, deceased, were awarded Rs. 23,000/- as compensation.

3. The State of Haryana has questioned its liability for payment of compensation in these cases. The prayer in the alternative being that the amounts awarded as compensation were excessive. Separate appeals have, on the other hand, been filed by the claimants in the cases relating to S.C. Nagpal and H.L. Narula

seeking enhanced compensation.

4. The finding of negligence recorded against the bus driver warrants no interference in appeal. The accident between the two vehicles stands admitted. According to the claimants, the jeep was travelling on its correct side of the road when the bus came at a fast speed from the opposite direction and swerved to its right and hit into the jeep, despite the driver of the jeep sensing impending danger, took his vehicle almost to the left edge of the embankment of the road.

5. No return was filed by the bus driver Bhagwan Singh. In the written statement filed on behalf of the State of Haryana and the General Manager, Haryana Roadways, the accident was attributed to what was called a mere chance. It was said that there was a curve at the place of the occurrence and the drivers of the two vehicles could not see each other. The driver of the jeep spotted a child in front of his vehicle and in order to save this child, took the jeep to its extreme left. The bus driver in order to avoid the accident swerved the bus towards the right and then the collision took place.

6. Turning to the ocular evidence of this occurrence, which is provided by the testimony of PW 7 Dharam Pal and PW 8 Lakhpai, the jeep was proceeding on its correct side of the road when the bus suddenly swerved to its right and after hitting into an electric pole, dashed into the jeep and pushed it down the road embankment. Both the witnesses denied the suggestion that there was any child crossing the road at that time. Bhagwan Singh the bus driver appeared as RW 1 and his statement makes an interesting reading. His testimony being that he had seen a child crossing the road. The jeep driver in order to save this child brought his vehicle towards his right hand side and when it came in front of the bus, he turned it towards its left hand side. Seeing the jeep coming towards the right hand side, he (the bus driver) turned towards the right and then the two vehicles collided. This version is at variance with what was stated in the return filed on behalf of the State of Haryana. It will be recalled that there it had been stated that on seeing the child the jeep had gone further to its left. Now, however, it was being said that the jeep had come first to its right and then it turned to its left.

7. RW 1 Bhagwan Singh further stated that this accident had taken place on his left side of the road and that both the vehicles stopped at the place of impact. This is belied not only by the testimony of PW 7 Dharam Pal and PW 8 Lakhpai, but also that of PW 3 Inspector Zile Singh, who inspected the spot after the accident. It was his unchallenged testimony that both the bus and the jeep were found in a depression below the road embankment on the left side of the road while facing Panipat.

8. In the circumstances and the evidence as discussed above, the Tribunal arrived at the only finding possible in this case namely, that this accident had been caused entirely due to the negligence of the bus driver.

9. Turning to the next and main question which arises in these appeals namely,

the amount payable to the claimants as compensation, the principles governing the assessment of compensation payable to the dependants of the deceased in such cases are those as laid down by the Full Bench of this High Court in *Lachman Singh v. Gurmit Kaur* 1979 ACJ 170 (P &H), where it was observed that the compensation to be assessed is the pecuniary loss caused to the dependents by the death of the deceased and for the purpose of calculating the just compensation annual dependency of the dependents should be determined in terms of the annual loss accruing to them due to the abrupt termination of life. For this purpose annual earnings of the deceased at the time of the accident and the amount out of the same which he was spending for the maintenance of the dependents will be the determining factor. This basic figure will then be multiplied by a suitable multiplier. It was further observed that the suitable multiplier shall be determined by taking into consideration the number of years of the dependency of the various dependents, the number of years by which the life of the deceased was cut short and the various imponderable factors such as early natural death of the deceased, his becoming incapable of supporting the dependents, due to illness or any other natural handicap or calamity, the prospects of the remarriage of the widow, the coming up of age of the dependents and their developing independent sources of income as well as the pecuniary benefits which might accrue to the dependents on account of the death of the person concerned.

10. The Full Bench authority referred to above came for consideration before a Division Bench consisting of S.S. Sandhawalia, C.J. and Surinder Singh, J. in *Asha Rani v. Union of India* 1983 ACJ 52 (P &H), where it was held that the normal multiplier is sixteen and it can rise to a maximum of twenty, virtually as the outer limit. It was further observed that the primary purpose of compensation to the dependants is to provide them a consolidated fund of money which would continue to yield annual financial support, which the deceased was providing to his dependants, in other words, the amount which would guarantee the availability of an equivalent annual financial income to them.

11. Taking up now the claim for compensation by the claimants in the case of S.C. Nagpal, deceased, the evidence on record shows that he was 35 years of age at the time of his death. He was a member of the Haryana Civil Services and as has been mentioned was posted as General Assistant to the Deputy Commissioner, Karnal. His total emoluments were at that time Rs. 610/- per month. Being in this service and of only 35 years of age, he could undoubtedly have looked for further advancement in his career in the years to come. The claimants here are his 85 years old mother, his widow Shanta Nagpal, who was 30 years old when he died and their two minor children. In assessing the loss suffered by the claimants here regard must also be had to the perks which are normally available to persons in government service like free medical aid and subsidised housing. All things considered, therefore, the loss in this case deserves to be taken at the rate of Rs. 500/- per month, 16 is obviously the appropriate multiplier here. So computed the compensation payable to the

claimants here would work out to Rs. 96,000/-.

12. H.L. Narula was 48 years of age at the time of the accident. His total emoluments at the time of his death were Rs. 590/-. In his case too the normal perks available to government servants must clearly be taken into reckoning. He has left behind a 43 years old widow and their three sons, one of whom namely, Rajinder Kumar was still a minor. In this case too the loss must clearly be taken to be at the rate of Rs. 500/- per month with 16 as the multiplier. Compensation so computed would work out to Rs. 96,000/-.

13. In the case of the driver Niranjan Singh, it has come on record that his emoluments at the time of his death were about Rs. 325/- per month. He was a little short of 57 years at the time of his death. He would have retired at the age of 58 years, but there was every prospect of his getting private employment elsewhere as a driver or as has come on record, he was a mechanic and could therefore, have opened a motor repair shop. In this situation, it would be reasonable to assume that he had at least another ten years span of earnings ahead of him. Even if his earnings be taken to be at the rate of Rs. 200/- per month, the amount awarded namely, Rs. 23,000/- warrants no interference in appeal.

14. In the result, the compensation awarded to the claimants in the case relating to S.C. Nagpal, is reduced to Rs. 96,000/-. The claimants shall, however, be entitled to this amount along with interest at the rate of 12 per cent per annum from the date of the application to the date of the payment of the amount awarded. Out of the amount awarded a sum of Rs. 10,000/- shall be paid to the mother of the deceased, Rs. 20,000/- each to his sons and the balance to his widow Shanta Nagpal.

15. The compensation payable to the claimants in the case relating to H.L. Narula, deceased, is enhanced to Rs. 96,000/- which again the claimants 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 the payment of the amount awarded. Out of the amount awarded a sum of Rs. 25,000/- shall be paid to the claimant Rajinder Kumar, Rs. 10,000/- each to the two other sons and the balance to the widow of the deceased.

16. The amount awarded as compensation to the claimants in the case relating to Niranjana Singh, deceased, is upheld and affirmed.

17. The appeal filed by the State of Haryana in the case relating to S.C. Nagpal is accepted to the extent indicated above; while that of the claimants in that case is dismissed. The other appeals filed by the State of Haryana are dismissed and that of the claimants in the case relating to H.L. Narula is hereby accepted. The claimants including those in the case of S.C. Nagpal shall be entitled to their costs in the proceedings before the Tribunal as also in this Court. Counsel fee Rs. 500/- in each set of appeals.