

(1985) 08 P&H CK 0120

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 467 of 1981

Shrimati Durga Devi

APPELLANT

Vs

Pepsu Road Transport G.M. Patiala and Others

RESPONDENT

Date of Decision : 24-08-1985

Acts Referred:

Citation : (1985) 08 P&H CK 0120

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

Bench : Single Bench

Advocate : V.P. Gandhi, for the Appellant; Atma Singh Cheema, for the Respondent

Final Decision : Allowed

Judgement

S.S. Sodhi, J.—The claim in appeal here is for enhanced compensation. The claimant being Unratian eight months old girl who lost both her parents, her father Shakti Malhotra and her mother Poonam Malhotra when their car met with an accident with a Pepsu Road Transport Corporation Bus. This happened on July 5, 1981 on the Morinda-Kharar Road.

2. It was the finding of the Tribunal that the accident had been caused entirely due to the rash and negligent driving of the bus-driver. A sum of Rs 2,800/- was awarded as compensation on account of the death of the father. As regards the mother, it was held that the claimant had suffered no loss and compensation was consequently declined.

3. It is now well-settled that there is indeed a monetary value to be attributed to the loss of the services of the mother for which the children are entitled to compensation, even though such services were rendered gratuitously. The extent of such loss would depend upon the peculiar circumstances of the deceased and the claimants, but would generally be the cost of replacement of such services. As is well-known, there are various services that a mother provides in the house, both for the husband as also her children. To begin with, she is the house-keeper

who sees to their board and lodging and furnishings of the house Besides this, she also has her role in saving upon the expenses of the childrens clothes and their schooling and above all she affords that element of security, so essential both to the children and the husband in times of ill-health and also on occasions when the husband may be unemployed, If the wife happens to be gainfully employed, this would constitute another important loss. In determining the loss suffered by the husband, children or both, all these factors have to be kept in view. In other words, even gratuitous services rendered by the mother have a monetary value and compensation in respect thereof is payable to the children and husband. The Tribunal thus clearly fell in error here in denying compensation to the claimant for the loss of the services of her mother.

4. Considering that the claimant was less than a year old when her mother died, it is obvious that if this unfortunate accident had not taken place, the claimant would have had her mother to look after her for many years to come, certainly until she was married. Seen in the context of the status and position of the claimant's parents and what she could consequently be expected to have aimed at in life, the loss on account of her mother's services clearly deserves to be assessed at Rs. 50,000/-.

5. Compensation was also sought on the financial aspect accruing on account of her mother's death. The reference here being to the income derived by the mother from the shares held by her in the two firms, Dynamic Services India Private Limited and Pioneer Communications. The evidence on record shows that Poonam Malhotra had 25 per cent share in Dynamic Services India Private Limited and 20 per cent in Pioneer Communications. The income of the deceased from her holdings in these firms was to the tune of about Rs. 6,000/- per annum. Mr. V. P Gandhi sought to contend that keeping in view the income of her deceased husband, this entire amount of Rs. 6,000/- per annum, deserves to be assessed as the financial loss suffered by the claimant. Though attractive on the face of it this position cannot be accepted as it must be borne in mind that upon the death of the mother Poonam Malhotra, her share in both these firms would come to the claimant and consequently she would start receiving the income which accruing to her mother during her life time. So considered, there is no loss of the claimant here for which compensation can be justified.

6. Turning now to the compensation payable in respect of the death of the father it is no doubt true that the claimant was the only child of her parents Considering, however, the young age of both the mother and father, it must be taken into reckoning that had they lived, they may have had other children and thereby dependency of the claimant would have got curtailed and correspondingly also the parents' capacity to save or accumulate assets, which could fall under the head of loss to the estate. As regards the income of the deceased, it will be seen that Shakti Malhotra was the joint Managing Director of the firm at a salary of Rs. 2,000/- per month with an annual increment of Rs. 200/-. Besides this, he was entitled to 20 per cent bonus and Rs. 500/- per

month as rent. Considering the circumstances of the claimant and the deceased in the overall context of the principles laid down by the Full Bench in *Lachhman Singh v. Gurmit Kaur*, "16" would clearly be the appropriate multiplier to be applied and the loss deserves to be assessed at Rs. 1,000/- per month. This would work out to Rs. 1,92,000/- which may be rounded off to Rs. 2,00,000/-.

7. The compensation payable to the claimant, Unnati is accordingly hereby enhanced to Rs. 2,50,000/- (Two lacs and fifty thousand only), which she 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.

8. The respondents shall be jointly and severally liable for the compensation awarded.

9. This appeal is accordingly hereby accepted with costs. Counsel fee Rs. 500/- (one set only).