(1993) 08 P&H CK 0011

In the Punjab And Haryana At Chandigarh

Case No : First Appeal Order No. 1049 of 1985

Shrimati Gurmail Kaur and Others — APPELLANT

Vs

The Chandigarh Transport Undertaking and Others — RESPONDENT

Date of Decision : 27-08-1993

Acts Referred:
Motor Vehicles Act, 1939 — Section 110A

Citation : (1994) 1 ACC 261 : (1994) ACJ 1052 : (1994) 106 PLR 182

Hon'ble Judges : Amarjeet Chaudhary, J

Bench : Single Bench

Advocate : G.S. Punia, for the Appellant; Ashok Aggarwal and Yogesh Goel, for the Respondent

Judgement

Amarjeet Chaudhary, J.—This is claimants'' appeal against the award dated 1.8.1985 passed by the Additional Motor Accident Claims Tribunal, Chandigarh, which on a claim petition u/s 110-A of the Motor Vehicles Act, had awarded a sum of Rs. 1,24,800/- as compensation with 12% interest to the claimants on account of the death of one Jaswinder Singh Maan, who died in an accident with Bus No. CHW 9016 belonging to Chandigarh Transport Undertaking which was being driven in a rash and negligent manner by its driver Nand Singh, respondent No. 3.

2. Aggrieved against the said award, the claimants have preferred this appeal for enhancement of the compensation.

3. The Additional Motor Accident Claims Tribunal (hereinafter referred to as the Tribunal) while disposing of the claim petition, had returned a categorical finding that the accident had taken place due to rash and negligent driving of Bus No. CHW 9016 by its driver Nand Singh, respondent No. 3. As such the Tribunal had fastened the liability to pay compensation on the respondents.

4. The challenge to the award is that the Tribunal had not assessed the monthly income of the deceased properly. In order to fortify his contention, the learned

Counsel for the claimants invited the attention of the Court to Exhibit PD which is a certificate of income of the deceased in which his gross monthly salary has been mentioned as Rs. 1190.20 Ps, whereas the Tribunal while granting compensation had assessed the monthly income of the deceased at Rs. 1070.81 ps. It was brought to the notice of the Court that the deceased was being paid bonus on his basic salary @ 8.33% PA. and was also getting over-time. While calculating monthly income of the deceased, these two incentives were not taken into consideration.

5. It was further argued that the deceased was 27-1/2 years of age at the time of the alleged accident. As such a multiplier of 18 instead of 16 should have been applied.

6. I have considered the submissions of both the learned Counsel for the parties.

7. I am of the considered view that the Tribunal while awarding compensation had not taken into. consideration the gross salary as mentioned in Exhibit FD, but the Tribunal had relied upon the statement of PW-3 M.S. Dureshi, Senior Clerk, Patiala Central Co-operative Bank, Chandigarh. The Statements of this witness was recorded on 3.8.1984 in which he had stated that as per office record the total pay packet of the deceased was Rs. 1070.81 Ps. In addition, he was earning bonus @ 8.33% P.A. on his basic salary. In Exhibit PD which was issued by the deceased''s employer on 8.1.1985, the gross monthly income of the deceased has been shown as Rs. 1190.20 Ps. The Tribunal while assessing the monthly income of the deceased lost sight of the fact that the gross monthly income of the deceased at the time of his death was Rs. 1190.20 Ps. On account of revision of pay as per Ex.PD. As such the Tribunal while awarding compensation to the claimants should have taken into consideration the deceased''s monthly income as stated in Ex.PD.

8. It is also in evidence of M.S. Qureshi (PW-3) that the deceased was 27-1/2 years at the time of the alleged accident. As such, it is a fit case in which a multiplier of 18 instead of 16 should be applied taking into consideration the age of the deceased.

9. As mentioned in the earlier part of the judgment, the monthly income of the deceased at the time of his death was Rs. 1190.20 Ps. Out of this amount, he must be spending l/3rd on himself i.e. Rs. 390/- and 2/3rd on his family i.e. Rs. 800/-. Therefore, the annual dependency of the deceased comes to Rs. 9600/-. By applying a multiplier of 18, the amount of compensation to which the claimants are entitled to, comes to Rs. 1,72,800/-. The claimants shall also be entitled to 12% interest P.A. on the compensation awarded from the date of filing of the claim petition till actual realisation. 10. The claimants shall also be entitled to bonus @ 8.33% P.A. on the basic salary of the deceased i.e. Rs. 585 P.M. as given in Ex. PD for a period of 18 years. The amount of bonus to be paid to the claimants shall not carry any interest. However, the claimants are not entitled to claim over time which is paid only if the work is actually done by an employee

beyond his usual office hours. Out of the amount awarded by this Court as compensation, the sum of Rs. 1,24,800/- already awarded by the Tribunal is to be adjusted.

11. Consequently, the appeal is allowed to the extent indicated above. No order as to costs.

