
(1998) 11 P&H CK 0137

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 609 of 1990

Smt. Amrit Kaur and Others

APPELLANT

Vs

The Chandigarh Transport Undertaking and Others

RESPONDENT

Date of Decision : 12-11-1998

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A

Citation : (1990) 1 ACC 122 : (1999) ACJ 723 : (1999) 121 PLR 34 : (1999) 1 RCR(Civil) 499

Hon'ble Judges : N.C. Khichi, J;Jawahar Lal Gupta, J

Bench : Division Bench

Judgement

Jawahar Lal Gupta, J.—The widow and two children have filed this appeal. They claim that the compensation of Rs. 72,000/- awarded by the learned Single Judge on account of the death of Avtar Singh (husband of appellant No. 1) is grossly inadequate.

2. A few facts may be briefly noticed:-

On August 13, 1983, at about 6.00 PM Avtar Singh was going on his moped (Hero Majestic) from the Grain Market in Sector 26 towards the Industrial Area. At the "T" Junction where one turns to the left for reaching the workshop, he was hit by bus No. CHW-3502. A part of the moped was crushed under the left wheel. Avtar Singh was hit. He got head injury which proved fatal. The appellants filed a claim petition. The Tribunal found that the claimants had suffered a loss of Rs. 1,92,000/-. However, the relief was declined on the ground that there was no evidence in the record which "might even remotely tend to suggest that the driver of the offending bus was responsible for causing this accident by driving the bus rashly and negligently."

3. The claimants appealed. The learned single Judge has found that the bus as well as the deceased Avtar Singh were "to be equally to blame for the accident". It has also been found that the bus driver "did not exercise the due care

and caution enjoined upon him while going across this T-junction". Finding the annual dependency to be Rs. 9,000/-, the learned single Judge applied a multiplier of 16 and quantified the total compensation at Rs. 1,44,000/- After making an allowance "for the contributory negligence", it was held that an amount of Rs. 72,000/- along with interest at the rate of 12 per cent shall be payable to the claimants. It is in this background that the present Letters Patent Appeal has been filed.

4. We have considered the matter. Admittedly, the deceased was drawing a salary of Rs. 1,000/- per mensem. The learned Tribunal had observed that he must be keeping "at least Rs. 200/- per month for his own expenses leaving a balance of Rs. 800/- per month for running the household". Applying a multiplier of 20, the total amount of compensation was fixed at Rs.,1,92,000/-. The learned single Judge has assumed that the deceased must be contributing Rs. 750/- per month viz Rs. 9,000/- per year. Applying a multiplier of 16, the compensation has been assessed at Rs. 1,44,000/-. In the circumstances of the case, we are not satisfied that the amount of compensation as assessed by the learned single Judge was correct. Firstly, the fact that the deceased was getting bonus etc. has not been kept in view. Secondly, the testimony of the wife of the deceased (appellant No. 1) is clearly to the fact that the deceased was keeping Rs. 60/- per month with him. There is no evidence to indicate that he was spending more than that for himself. In any event, the view taken by the learned Tribunal was reasonable and possible. We do not find any justification for the learned single Judge having taken a different view in this respect. On that basis, the annual dependency would be Rs. 9,600/-. To this, even a part of the amount of bonus deserves to be added. Even if out of Rs. 750/- a cut is applied, it would be fair to fix the annual dependency at Rs. 10,000/-. The deceased was about 34 years of age. Applying a multiplier of 20, the amount of compensation works out to Rs. 2,00,000/-. In view of the finding regarding the contributory negligence, the compensation payable to the claimants would be Rs. 1,00,000/- with interest at the rate of 12 per cent per annum.

5. Since no one has appeared on behalf of the respondents despite service, we make no order as to costs. The appeal is disposed of in the above terms.