
(2007) 01 P&H CK 0074
In the Punjab And Haryana At Chandigarh

Smt. Dhanpati Devi

APPELLANT

Vs

Gurbachan Lal and Others

RESPONDENT

Date of Decision : 17-01-2007

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A

Citation : AIR 2007 P&H 66 : (2007) 147 PLR 729 : (2007) 3 RCR(Civil) 808

Hon'ble Judges : Vinod K.Sharma, J

Bench : Single Bench

Judgement

Vinod K. Sharma, J.—This order will dispose of F.A.O. Nos. 123d of 1985 and F.A.O. No. 40 of 1986 along with X-obj. Nos. 65-CII of 1986 and 66-CII of 1986 respectively. For the sake of convenience, the facts are being taken from F.A.O. No. 1238 of 1985.

2. Both these appeals arise out of the common award passed by the learned Motor Accident Claims Tribunal, Karnal vide which a sum of Rs. 15000/- was granted to the claimants in each case on account of no fault liability.

3. A petition u/s 110-A of the Motor Vehicles Act, 1939 was filed by the claimants-appellants claiming compensation on account of death of Janki Dass and Surinder Pal. The learned Tribunal came to the conclusion that the accident had not occurred due to rash and negligent driving of truck No. PBO 5217, which was driven by Narinder Pal, as no claim was raised against the owner of the car or the insurance company. On issue No. 2 it was held that the appellants are entitled to a sum of Rs. 15000/- in each of the claim petitions under no fault liability. They were also held entitled to the interest @ 12% p.a. from the date of claim petition till realisation.

4. The learned Counsel for the appellants challenged the finding of the learned Tribunal on issue No. 1 on the ground that the Tribunal had wrongly disbelieved the evidence of the independent witness PW 5 Mahavir Tyagi, who was an eyewitness to the accident and, therefore, the finding on issue No. 1 deserves to

be reversed.

5. I have gone through the statement made by Mahavir Tyagi PW 5 and also finding recorded by the Tribunal and find no merit in this contention as the learned Tribunal on the basis of photographs placed on record rightly came to the conclusion that the statement of Mahavir Tyagi PW 5 could not be believed as it was contrary to the photographs placed on the record. The finding recorded by the learned Tribunal does not call for any interference. Accordingly, it is held that the accident did not take place due to rash and negligent driving of the bus and, therefore, the claimants are only entitled to compensation under the law of "no fault liability". The learned Counsel for the appellants has placed reliance on the judgment of the Hon"ble Supreme Court (sic) in case Jagdish Kaur and Ors. v. Raghbir Singh and Ors. 2004 (1) PLR 670 to contend that due to enhancement of no fault liability under the new Act the appellant would be entitled to a sum of Rs. 50,000/-instead of Rs. 15,000/- granted by the learned Motor Accident Claims Tribunal, as the Hon"ble Supreme Court has been pleased to hold that new Act would apply retrospectively and the award which was passed prior to the enforcement of new Act would also be governed therein.

6. In view of the judgment of the Hon"ble Supreme Court, it is held that claimants would be entitled to a sum of Rs. 50,000/-in each case along with interest @ 9% p.a. on the enhanced amount from the date of claim petition till payment. The liability shall be joint and several.

7. The appeals are disposed of as above.

Cross Objection No. 65-CII of 1986

8. The cross-objector has merely prayed that the award of the Tribunal be upheld.

9. In view of the finding recorded in the appeal. the cross objections are dismissed.