
(1995) 08 P&H CK 0102

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From the Order No. 1875 of 1994

Smt. Harpreet Kaur Toor and Others

APPELLANT

Vs

Sh. Harsh Kumar Trihan and Others

RESPONDENT

Date of Decision : 11-08-1995

Acts Referred:

Motor Vehicles Act, 1939 — Section 110A

Citation : (1996) ACJ 559 : (1995) 111 PLR 516

Hon'ble Judges : Sarojnei Saksena, J

Bench : Single Bench

Advocate : Ashit Malik, for the Appellant; Ravi Sodhi, for Respondent Nos. 1 and 2 and Pardeep Bedi, for the Respondent

Final Decision : Allowed

Judgement

Sarojnei Saksena, J.—This appeal is filed by Smt. Harpreet Kaur Toor widow, Smt. Paramjit Kaur Toor mother and Shri Taranjit Singh Toor father of deceased Captain Pawan Deep Singh Toor for enhancing the compensation of Rs. 5,34,720/- awarded to them for the vehicular death of Captain Pawan Deep Singh Toor.

2. In a nutshell the backdrop of the case is that on April 22, 1991, Palvinder Singh, Captain Pawan Deep Singh and Kuljit Singh were going in Maruti Car No. BICH-01-A-1000 from Chandigarh to Delhi. Kuljit Singh was on the steering wheel. Captain Pawan Deep Singh Toor was sitting by his side. Palvinder Singh was sitting on the back seat. This Maruti car was going at a normal speed. Suddenly from Delhi side truck No. HNG-6199 came at a fast speed. It as being driven rashly and negligently by Jasbir Singh respondent No. 2. The truck swayed towards the Maruti car and rammed into it at 11.30 A.M. All the occupants of the care sustained various injuries. Captain Pawan Deep Singh Toor breathed his last on account of multiple injuries sustained by him in this accident. Report of this accident was lodged. Case under Sections 279/338/304-A of the Indian Penal Code was registered against respondent No. 2.

3. The aforesaid claimants claimed a sum of Rs. 50,00,000/- as compensation on account of death of Captain Pawan Deep Singh Toor. They alleged that the deceased was getting Rs. 8,000/- at the time of his death. He was aged 24 years only and was working as Captain in Indian Army. Apart from the salary, he was enjoying other perks admissible to Army officers also. He was having a bright career. He completed the training of armoury. He could have been promoted to the rank of brigadier. Hence considering his future promotion prospects, this benefit should also be given to the claimants. They spent about Rs. 25,000/- on shifting the dead body from one place to the other and on funeral etc. Thus, they claimed Rs. 50,00,000/- as compensation.

4. Respondents" 1 and 2 filed joint written statement and denied that the accident took place because of the rash and negligent driving of respondent No. 2 of the said truck. Conversely their plea is that Kuljit Singh was driving the Maruti car in a zig-zag, rash and negligent manner. Hence the respondents are not liable to pay any compensation.

5. Respondent No. 3- Insurance company filed a separate written statement and it also pleaded that the accident occurred due to the negligent driving of driving of Maruti car. The truck was being driven by its driver at a slow and normal speed on the left side. Certain preliminary objections were also raised.

6. Issues were framed. Parties adduced their evidence. On appraisal of the evidence adduced by the claimants, the Claims Tribunal came to the conclusion that at the time of death Pawan Deep Singh Toor was a Captain in the Indian Army. He was appointed as 2nd Lieutenant on December 17, 1988 as per Exhibit P-14. His date of birth is March 13, 1966 as per document Exhibit P-15. Thus, he was 25 years 1 month and 9 days old at the time of his death. At that time he was drawing Rs. 4177/- as salary, which is proved by the certificate Exhibit P-8. Harpreet Kaur is his widow and other claimants are his old parents. The Tribunal determined the dependency of the claimants at Rs. 2785/- per month as 1/3rd for personal expenses of the deceased was deducted from his salary. Adopting a multiplier of 16, the Tribunal awarded Rs. 5,34,720/- as compensation to the claimants.

7. The claimants" learned counsel contended that the Tribunal has not taken into consideration this fact that Pawan Deep Singh Toor was a promising military officer. In due course of time he would got promotions and could have risen to the post of Brigadier at least, if not to the post of General. The Tribunal has assessed the dependency on the basis of the pay which the deceased was drawing at the time of his death. Relying on General Manager, Kerala State Road Transport Corporation v. Susamma Thomas and Ors. 1994 2 P.L.R. 1 (S.C.), the appellants" learned counsel contended that the Tribunal has fallen into an error in not taking into consideration future prospects of promotions which the deceased could have got. According to him, the deceased in due course of time would have been promoted to the rank of Brigadier. His pay at that time would not have been less than Rs. 10,000/-. Hence while determining the dependency

this factor should also have been borne in mind by the Tribunal.

8. Respondents' learned counsel supported the award and contended that the dependency has been rightly arrived at and further suitable multiplier of 16 has been made applicable and thus sufficient compensation has been awarded to the claimants.

9. Loss of a human life cannot be compensated by money, but it is also essential for one's sustenance. After the sudden demise of Captain Toor his widow and parents are not only deprived of the pleasures of life, love and affection, but also of dignity and status of military life. The amount of compensation will provide them at least a solid plank to stand erect and to live honourably. Money compensation is only a protective umbrella, which will give them shelter and strength to withstand the vagaries of life.

10. This factor cannot be lost sight of that at the time of his untimely death the deceased was aged only 25 years. He was a promising military officer. In 1988 he was appointed 2nd Lieutenant and on the date of death he was Captain. In due course of time, he could have been promoted to higher ranks as well. No doubt, at the time of his death he was drawing salary of Rs. 4177/-. The Tribunal has deducted 1/3rd for personal expenses of the deceased and has thus determined dependency of the claimants at Rs. 2785/- per month. Taking a moderate view of the future prospects of the deceased, it can safely be concluded that in future he could have drawn at least Rs. 7,000/- or Rs. 8,000/- per month, if not more. Deducting 1/3rd for his personal expenses, the dependency of the claimants can safely be determined at Rs. 5,000/- per month. Adopting the multiplier of 16, in my considered view the claimants are entitled to get Rs. 9,60,000/- from the respondents jointly and severally. Hence I enhance the award granted to the claimants from Rs. 5,34,720/- to Rs. 9,60,000/-. They are also entitled to recover interest on this amount at the rate of 12 per cent per annum from the date of filing of the claim petition. Out of this amount, Rs. 3,00,000/- will be divided equally between the parents and the remaining Rs. 6,60,000/- his widow will be entitled to get. Accordingly, the appeal is allowed with costs.