
(2004) 10 P&H CK 0041

In the Punjab And Haryana At Chandigarh

Case No : Letters Patent Appeal No. 1024 of 1994

Smt. Hero and Others

APPELLANT

Vs

General Manager, Haryana Roadways and Others

RESPONDENT

Date of Decision : 26-10-2004

Acts Referred:

Fatal Accidents Act, 1855 — Section 1A

Citation : (2005) 1 CivCC 702 : (2005) 139 PLR 663

Hon'ble Judges : G.S. Singhvi, J;Ajay Kumar Mittal, J

Bench : Division Bench

Advocate : Ashit Malik, for the Appellant; Jaswant Singh, D.A.G., for the Respondent

Judgement

Ajay Kumar Mittal, J.—The appellants filed a petition claiming compensation for the death of Jai Bhagwan who died in a road accident which took place on 25.8.1984 between the cycle on which he was riding and a Haryana Roadways Bus. Appellant-Smt. Hero is the mother and appellants-Vijay, Jai Singh, Satta and Meshi Lal are the brothers of the deceased-Jai Bhagwan. Petition qua the brothers of the deceased was dismissed and it was accepted in favour of appellant Smt. Hero only.

2. The Motor Accidents Claims Tribunal, Karnal (for short "the Tribunal"), on appreciation of evidence led by the parties, held that the accident took place due to rash and negligent driving of the Haryana Roadways Bus as a result of which Jai Bhagwan lost his life. The Tribunal further held that u/s 1A of the Fatal Accidents Act, only Smt. Hero, the mother of the deceased was entitled to Compensation. The Tribunal held that the deceased must have been earning a sum of Rs. 390/- per month at the time of his death. Applying a cut of 1/3rd, the dependency of Smt. Hero on the deceased was assessed at Rs. 260/- per month. The Tribunal applied a multiplier of 10 and thus, awarded a total sum of Rs. 31,200/- with interest at the rate of 10% per annum from the date of institution of the petition till realisation.

3. In appeal before this Court, learned Single Judge held that the income of the deceased could not be less than Rs. 600/- per month. Accordingly, applying a cut of 1/3rd, the dependency of the mother, Smt. Hero on the deceased was assessed at Rs. 400/- per month and applying the same multiplier of 10, as was done by the Tribunal, the Single Judge held appellant No. 1 entitled to compensation of Rs. 48,000/-. However, rate of interest was changed to 12% per annum, Still dissatisfied with the enhanced compensation, the claimant-appellants have filed the present appeal.

4. At the hearing Shri Ashit Malik, learned counsel appearing for the appellants confined his submissions to quantum of compensation and argued that multiplier of 10 adopted by the Tribunal and accepted by the learned Single Judge was inadequate. The counsel contended that Jai Bhagwan was a young boy of 20 years only, at the time of death and, therefore, having regard to the age of the deceased and also of his mother who at the most would be aged 40 or 45 years at the relevant time, a higher multiplier deserved to be applied.

5. We have thoughtfully considered the submission of the learned counsel. Undisputedly, the deceased was hardly 20 years of age at the time of death. The Tribunal applied multiplier of 10 only by observing that after marriage, Jai Bhagwan would have not been able to spare substantially for his mother. We find it difficult to accept this approach of the Tribunal. This aspect does not appear to have been considered even by the learned Single Judge also. In the normal course, even if a person is married, he can certainly contribute a reasonable sum for the survival of his mother. If after marriage, the scope of contributing money by a son to his mother diminishes, the income of such person can also be expected to be increased with the passage of time and, therefore, the quantum of contribution can be said to be almost the same even after marriage. In the light of the submission made by Shri Malik, learned counsel appearing for the appellants, the question thus, remains as to how long Jai Bhagwan would have contributed to his mother, All this will depend upon the life expectancy in the family. As noticed already, the deceased was about 20 years of age and he was the eldest son in the family. At that time, the age of mother of the deceased cannot be said to be more than 40 or 45 years. Having regard to the average life expectancy, especially in this part of the country, we are of the view that mother of the deceased i.e. appellant No. 1 would certainly have survived upto the age of 60 or 65 years and this is exactly apparent from the record as well. The accident had taken place on 25.8.1984 and we are presuming the age of appellant No. 1 at that time to be around 40 or 45 years and now certainly more than 20 years have gone by since the death of her son Jai Bhagwan.

6. In the circumstances noticed above, we are clearly of the opinion that a multiplier of 18 would be just and equitable to have been applied in this case. For this conclusion, we find support from a judgment of the apex Court in State of Haryana and Another Vs. Jasbir Kaur and Others, which was a case where the Tribunal in the case of death of a person of 25 years of age had applied multiplier

of 18 and in appeal at the instance of the State of Haryana, and High Court had given its seal of approval. Computing the compensation on the basis of multiplier of 18, the same would come to Rs. 86,400/- i.e. Rs. 400 x 12 x 18.

7. While accepting the appeal to this extent only, we direct that the amount of compensation will be payable to appellant No. 1, i.e. the mother of Jai Bhagwan and all the respondents shall be jointly and severally liable to pay the same. Appellant No. 1 shall also be entitled to interest at the rate of 12% per annum from the date of institution of the claim petition till realisation. The aforesaid amount would be inclusive of the amount of rupees 15,000/- already deposited under No. Fault Liability clause. The respondents shall deposit the amount due within two months. There will, however, be no order as to costs.