
(2010) 12 P&H CK 0319
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 1230 of 1992 (O and M)

Smt. Satwanti and Ors

APPELLANT

Vs

Narender Singh and Others

RESPONDENT

Date of Decision : 23-12-2010

Acts Referred:

Citation : (2010) 12 P&H CK 0319

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K. Kannan, J.—The appeal is for enhancement of compensation at the instance of widow, 3 minor children and father of the deceased. The deceased was a school teacher in a government high school, earning Rs. 2,500/-. He was travelling in a Canter Van when the vehicle collided with another truck bearing No. HR-15-0115 insured with National Insurance Company. The Tribunal found that the accident took place due to poor visibility due to fog and hence an act of god. Even the driver of the vehicle was not examined and, therefore, the finding that the accident is vis major is perverse. If the visibility was poor, there was need for greater circumspection and if the driver collided with another truck, it must be taken as answering a res ipsa loquitur situation to hold that there was negligence of the insured's driver. I would, accordingly, hold so.

2. As regards the quantum, I will reappraise it in the light of the judgment of the Hon'ble Supreme Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, . would provide for a 50% increase towards prospects of future increase and take the average income to Rs. 3,750/-. I would adopt a deduction of 1/4th and take the monthly contribution to be Rs. 2812.50. He was 36 years of age and I would adopt a multiplier of 15 and find the loss of dependence at Rs. 5,06,250/-. I will add Rs. 5,000/- towards loss of consortium to the wife and at the rate of Rs. 2,500/- for each of the 3 minor children. I will add another Rs. 5,000/- for loss to estate and Rs. 2,500/- for funeral expenses.

The total compensation shall be Rs. 5,26,250/-.

3. It is unfortunate that this case has stood this long for disposal for death of a teacher, who left behind a young widow and 3 minor children and an old father. The widow must have gone along her life in misery perhaps and the children must have grown, muttering under their breath their fate in securing a paltry compensation by a perverse approach by a Tribunal. This money could not get back their beloved bread winner but hopefully, the claimants would realize that justice prevailed, albeit belatedly. A little more resourceful Insurance Company would have held out an olive branch of hope for the despondent family. May be, we have not get known a responsible insurer, who would take pragmatism in its stride and offer what was due. I have examined the records. A Lok Adalat settlement was spurned off because, the insurer will not offer any amount in excess, if the case had been decided on no fault basis. An unwillingness to take responsibility even for proper decisions is an anathema in the scheme of working of public authorities. A judicial heave of sigh for the wooden approach shall mean mulcting the Insurance Company at least for symbolic reprimand through costs at Rs. 5,000/-.

4. In fine, the compensation shall be Rs. 5,26,250/-with interest at 6% over and above the amount in excess of Rs. 25,000/-. Out of the said sum, the father of the deceased shall be paid Rs. 75,000/-with interest and the widow and children shall be entitled to an equal distribution of the remaining amount. The liability shall be on the insurer of the truck HR-15-0115 viz of the National Insurance Company.

5. The appeal is allowed as above.