
(2011) 09 P&H CK 0207
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 6052 of 2010 (O and M)

Suman Sharma

APPELLANT

Vs

Dharma Singh and others

RESPONDENT

Date of Decision : 14-09-2011

Acts Referred:

Citation : (2012) ACJ 2352 : (2011) 164 PLR 668 : (2012) 2 RCR(Civil) 27 : (2012) 2 TAC 478

Hon'ble Judges : Vijender Singh Malik, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vijender Singh Malik, J.—This is an appeal brought by the claimant seeking enhancement of compensation awarded by learned Motor Accidents Claims Tribunal, Rewari (for short "the Tribunal") vide award dated 25.5.2010. The case set up by the appellant is as under:-

2. On 29.10.2008, Yogender Sharma was coming from village Kund to his village Mchtawas on bicycle. Manish and Dharam Singh came from his front side driving motor cycle bearing registration no. HR-43-7271 in a rash and negligent manner. They had hit the bicycle as a result of which Yoginder Sharma died at the spot. Rohtas lodged F.I.R.No.183 about the accident on the same date at Police Station, Mandhan. Yogender Sharma was aged 26 years and a semi skilled labourer earning Rs.4500/- per month. Since her mother-in-law Savitri did not join her, Suman Sharma, the widow of the deceased had brought the petition impleading her as proforma respondent.

3. Respondent nos. 1 to 3 resisted the claim petition. Respondent nos. 1 and 2 had questioned the maintainability of the petition in the present form as well as cause of action and locus standi with the claimant to bring the same. The averments of the claimant were denied in para-wise reply. Respondent no.3, besides taking preliminary objections regarding maintainability, locus standi,

cause of action and want of an effective and valid driving licence with respondent no.1 at the time of accident, has averred that the claimant and the proforma respondent are not entitled to any amount as compensation. The deceased was denied to be aged 26 years or a semi skilled labourer earning Rs.4500/- per month. The factum of the accident is even denied and the petition was prayed to be dismissed.

4. On the pleadings of the parties, the following issues were framed:-

1. Whether the accident which took place on 29.10.2008 at about 12.00 noon between village Kund and Mchtawas, Police Station, Mandan, District Alwar, had occurred due to rash or negligent driving of motor cycle bearing no. HR-43-7271 by Dharam Singh, respondent no.1? OPP

2. What is the amount of compensation to which petitioner and proforma respondent no.4 shall be entitled to on account of death of Yogender in the accident and from whom, if issue no.1 is proved in favour of petitioner? OPP

3. Whether petition is not maintainable in the present form? OPR

4. Whether petitioner has no locus standi and cause of action to file the present Petition ? OPR

5. Whether respondent no.1 was not holding a valid and effective driving licence to drive the motor cycle at the lime of accident, if so to what Effect ? OPR

6. Whether terms and conditions of insurance policy were violated by respondent no.1 at the time of accident, if so to what effect? OPR

7. Relief.

5. Taking evidence of the parties and hearing learned counsel representing them, learned Tribunal has assessed a sum of Rs.2,27,400/- as compensation and awarded the same to the appellant and proforma respondent no.4 with interest at the rate of 6% per annum. The appellant was held entitled to 70% of the same while proforma respondent no.4 was held entitled to 30% thereof.

6. Since the controversy between the parties is confined to the quantum of compensation, submissions are advanced only on that point.

7. I have heard Shri Arun Yadav, learned counsel for the appellant and Ms.Vandana Malhotra, learned counsel for respondent no.3.

8. Learned counsel for the appellant has submitted that though Yogender Sharma died at the age of 26 years, the multiplier adopted by the Tribunal is "7" According to him, the multiplier adopted by learned Tribunal is far below the one required to be adopted. Learned counsel for respondent no.3 has also admitted at the bar that the multiplier is not adequate, but she has resisted the adoption of multiplier of "17" which may be available in case of death at the age of 26 years.

9. It is a case where the deceased is survived by his mother and wife. The wife is

a young woman. As per her own admission, she did not reach her matrimonial home for cohabitation with her husband because "Gona" ceremony was yet to take place. In such a case, the wife is bound to remarry. Yogender Sharma, therefore, died issueless and the multiplier cannot be governed by the age of the deceased. However, the wife is though, a young woman, yet she has suffered the death of her husband. At least the multiplier of "7" is not justified. In these circumstances, I hold that multiplier of "11" may be appropriate for assessing compensation in this case. Applying the same, I find the loss of the appellant and respondent no. 4 at Rs.3,43,200/-. Adding to it, a sum of Rs. 20,000/- which can be allowed in the name of loss of consortium, loss of estate and funeral expenses as per the decision of Hon"ble Supreme Court of India in Smt. Sarla Verma and others v. Delhi Transport Corporation and another, (2009-3)155 P.L.R. 22 (S.C.), I assess the compensation payable to the appellant and respondent no.4 at Rs.3,63,200/-. Since respondent no.4 is not before me to question the apportionment made by learned Tribunal, the enhanced amount will be shared in the manner stated in the award dated 25.5.2010.

10. The appeal is, consequently, allowed and the compensation payable to the appellant and respondent no.4 is enhanced to Rs.3,63,200/- which will be payable by the insurance company with interest at the rate of 6% per annum.