

(2005) 09 P&H CK 0033

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 784 of 1985

Swarni Devi (Died) through LRs.

APPELLANT

Vs

Pepsu Road Transport Corporation and Others

RESPONDENT

Date of Decision : 08-09-2005

Acts Referred:

Citation : (2006) 142 PLR 752 : (2006) 1 RCR(Civil) 438

Hon'ble Judges : Ashutosh Mohunta, J

Bench : Single Bench

Advocate : S.S. Rana, for the Appellant; R.S. Ahluwalia, for the Respondent

Final Decision : Allowed

Judgement

Ashutosh Mohunta, J.—This is claimants' appeal to challenge the award dated 26.3.1985 of the Motor Accident Claims Tribunal, Bathinda (for short "the Tribunal") whereby their claim petition for the death of Rajinder Kurnar has been dismissed and no compensation has been awarded to them.

2. The relevant facts in brief are that on 17.9.1982 at about 6 A.M. Pepsu Road Transport Corporation Bus bearing No.PBP-3563, driven by Malkiat Singh at a very high speed in the area of village Bhucho after hitting a Rehra pulled by a camel, dashed against truck bearing registration No. PUR-4015 driven by Rajinder Kumar and coming from opposite direction. In the process, Rajinder Kumar driver of the truck died at the spot and Raj Kumar, who was sitting beside the driver, received injuries. On the Rehra Gurdial Singh along with a calf was sitting. Gurdial Singh's son Surjit Singh (aged 45 years) was going with the camel and a buffalo tied with the Rehra with a rope was pushed by Surjit Singh's wife's brother Mohinder Singh. With the impact of the accident, Gurdial Singh was thrown on the ground along with the Rehra, while the calf died at the spot. Both Mohinder Singh and Gurdial Singh received injuries. The camel also received injuries, while Surjit Singh, who was crushed under the bus, died in the hospital. Three claim petitions were filed. Smt. Swarni Devi (mother), Mangat

Ram (father) and Sneh Lata (minor sister) filed M.A.C. No. 8/RT 8 of 1983. However, the Tribunal dismissed the claim petition merely on the statement of Ajmer Singh Mechanic (R.W.I), who stated that there was a crack in the show and front big glass was broken, otherwise the bus was in perfect condition, whereas the truck, which Rajinder Kumar deceased was driving, was totally damaged. From this statement of Ajmer Singh Mechanic RW-1, the Tribunal concluded that though the accident between the bus and the Rehra stood proved, but the accident between the bus in question was not proved at all. It has also been concluded by the Tribunal that Malkiat Singh (respondent No. 2) was driving the bus rashly. Now the claimants have filed this appeal to challenge the award of the Tribunal. Smt. Swarni Devi, mother of Rajinder Kumar deceased, has died by now. Her legal representatives have been brought on record by this Court vide order dated 26.7.2005 passed in C.M. NO. 14166-CII of 2005.

3. It has been contended by Mr. S.S. Raria, teamed counsel for the appellants, that it has come in the statements of Mohinder Singh (A.W.4)"and Raj Kumar, who has also received injuries in the Same very incident, that after striking the cart (Rehra), the same bus struck against the truck coming from the opposite direction and the driver thereof had died at the spot. Raj Kumar claimant had received injuries, while he was sitting beside Rajinder Kumar driver in the truck in question. However, Mohinder Singh, who was pushing the buffalo tied with the Rehra in question at the relevant time and himself had received injuries at the spot, had no interest at all in falsely implicating Malkiat Singh, driver of the bus, and in favour of the claimants in M.A.C. No. 8/RT 8 of 1983. It has further been contended by the learned Counsel that even in the F.I.R. (Ex.PX), which was lodged by Gurdial Singh-injured in the same incident - immediately after the occurrence, a mention with regard to the death of the driver of truck No. PUR-4015 has been made. Mohinder Singh, who is a disinterested and a stamped witness, has stated before the Court that Rajinder Kumar had died in the same occurrence.

4. The contentions raised by the learned Counsel for the appellants have vehemently been controverted by Mr. R.S. Ahluwalia, learned Counsel for the respondents.

5. After hearing the learned Counsel for the parties and on going through the evidence adduced on record. I find merit in the contentions raised by the learned Counsel appearing on behalf of the appellants.

6. Raj Kumar claimant, who was sitting beside Rajinder Kumar deceased in the truck in question and is a stamped witness, had stated before the Tribunal that he was coming on truck No. PUR-4015 along with Rajinder Kumar driver, from the side of Bhuchio towards Bathinda, when within the revenue estate of Bhuchio, the P.R.T.C. Bus No. PUB-3563, driven by Malkiat Singh driver, came from the opposite direction at a high speed. He also stated that after striking a Rehra, it struck against their truck, as a result of which Rajinder Kumar driver died at the spot, while he received multiple injuries. He even tendered in evidence the

medico-legal report (Ex.PY). Gurdial Singh, who was sitting on the Rehra in question along with the calf and received injuries in the same accident, and had lodged the F.I.R. (Ex.PX) immediately after the occurrence at 7 A.M. at Police Station Cantt. Bathinda, had mentioned the same facts therein. Mohinder Singh (A.W.4) - another stamped witness of the occurrence - had stated that after striking the cart, the bus had struck against a truck coming from the opposite direction and the driver of the truck had died at the spot. The statements of Raj Kumar and Mohinder Singh find corroboration from the statement of Dr. Subhash Chander (A.W.6) (who had conducted the post-mortem on the dead body of Rajinder Kumar deceased), which is to the effect that in his opinion the injuries sustained by Rajinder Kumar could have been caused in a vehicular accident and that the same were ante-mortem in nature and were sufficient to cause death in the ordinary course of nature. All this disinterested evidence goes to prove that Rajinder Kumar was killed at the spot in the same very incident. It also stands proved from the evidence of the witnesses that the accident had resulted owing to the rash and negligent driving of the P.R.T.C. Bus No. PUB-3563 by Malkiat Singh driver. In view of this overwhelming evidence adduced on record, the mere statement made by Ajmer Singh Mechanic (RW-1) cannot be relied upon. Consequently, it is held that Rajinder Kumar, driver of the truck in question, had died as a result of rash and negligent driving of P.R.T.C. bus No.PUB-3563 by Malkiat Singh, respondent No.2.

7. It has come in the statement of Smt. Swami Devi (AW-3) that Rajinder Kumar was 25 years of age at the time of the accident and he was drawing Rs. 500/- per month as his salary. It has also come in her evidence that the whole family was dependent on Rajinder Kumar. I do not find any exaggeration with regard to the monthly salary being drawn by Rajinder Kumar deceased at the relevant time. In the year 1982, the new Motor Vehicle Act, 1988, had not come in force. In view of this, I am of the considered opinion that out of this meager salary of Rs. 500/-, Rajinder Kumar might be spending Rs. 100/- on personal maintenance and the balance Rs. 400/- might have been spent by the dependents, who are claimants herein. In view of this, the annual dependency comes to Rs. 4,800/-. Rajinder Kumar was 25 years of age at the relevant time. Thus, multiplier of "18" can appropriately be applied in the present case. By applying the multiplier of "18" the amount of compensation comes to Rs. 86,400/-. I also grant Rs. 10,000/- for funeral expenses and loss of consortium. In this way, the total amount of compensation comes to Rs. 96,400/-. The claimants are also entitled to an interest at the rate of 9% per annum with effect from the date of the claim petition till realization. The respondents are held liable to pay the amount of compensation, jointly and severally. The entire amount of compensation be paid to Mangat Ram, father of Rajinder Kumar deceased.

The appeal is, accordingly, allowed.