
(2006) 03 P&H CK 0091
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 5194 of 2002

Taro Devi and Others

APPELLANT

Vs

Saginder Pal Singh and Others

RESPONDENT

Date of Decision : 01-03-2006

Acts Referred:

Citation : (2006) 4 ACC 575 : (2007) 145 PLR 295 : (2006) 4 RCR(Civil) 445

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Advocate : Arun Jindal, for the Appellant;

Final Decision : Allowed

Judgement

Viney Mittal, J.—The claimants are in appeal. They have challenged the award passed by the Motor Accidents Claims Tribunal, Patiala (for short, 'the Tribunal') dated August 1, 2002 whereby an amount of Rs. 50,000/- has been awarded to claimant Taro Devi as compensation on account of death of Faquir Chand, her husband. The claim of claimants No. 2 and 3 has been rejected as it has been found that they were not dependents on their father Faquir Chand.

2. An accident took place on February 4, 2000 when Faquir Chand was riding a bicycle alongwith his son Chetan Jindal. He was hit by a bus No. PB-11H/9908, which came from the side of bus stand Patiala being driven in a rash and negligent manner. Consequently, the bus hit the cycle and as a result thereof, Faquir Chand was crushed under the wheels of the bus and died at the spot. Three claimants, namely, widow and two sons, namely, Chetan Jindal and Parveen Kumar filed the claim petitions claiming compensation. They specifically pleaded that bus driver was driving the offending vehicle in a rash and negligent manner and, therefore the accident in question had occurred.

3. The learned Tribunal, on the basis of evidence available on record, has found that the bus driver indeed was rash and negligent in his driving and, therefore, accident in question had occurred. It was further found that Chetan Jindal and

Parveen Kumar aged 27 years and 29 years, respectively, could not be treated to be the dependents of deceased Faquir Chand. Consequently, their claim was rejected. However, Smt. Taro Devi widow of deceased Faquir Chand was held to be entitled to compensation. The learned Tribunal assessed the compensation at Rs. 50,000/- in lump-sum payable to Smt. Taro Devi. Additionally, a sum of Rs. 5,000/- was awarded as expenditure spent on cremation and last rites of the deceased. In this view of the matter, a total compensation of Rs. 55,000/- was awarded alongwith interest at the rate of 9% per annum.

4. The claimants have now approached this Court through the present appeal.

5. I have heard Shri Arun Jindal, the learned counsel appearing for the appellants and with his assistance have also gone through the record of the case.

6. As for as the claim of appellants No. 2 and 3, namely, Chetan Jindal and Parveen Kumar is concerned, the learned Tribunal has rightly rejected their claim petition on the ground that they were aged 27 years and 29 years, respectively. In these circumstances it has rightly been held by the Tribunal that the aforesaid claimants could not be treated to be dependents of the deceased Faquir Chand.

7. With regard to claim made by Taro Devi widow of Faquir Chand, it is apparent that the claim has been assessed on the lower side by the Tribunal.

8. The learned Tribunal has given a finding of fact that deceased Faquir Chand was 68 years of age at the time of accident. Smt. Taro Devi has appeared as AW1 and has deposed that at the time of death of her husband, her husband was earning Rs. 10,000/- per month and was running a business of Soap Factory, although she has stated that her two sons were helping his father in the business but all the same the fact remains that Faquir Chand was running a business at the time of his death. It is apparent that there is no evidence in rebuttal led by the respondents to show that the aforesaid statement made by Smt. Taro Devi was in any manner incorrect. In these circumstances, there is absolutely no justification to assess the compensation payable keeping only her age in view without assessing the dependency. The age of Taro Devi has been assessed as 63 years at the time of filing of the claim petition. Even if I take that the total earning from the business which was being run by Faquir Chand was Rs. 10,000/- per month and that Chetan Jindal and Parveen Kumar two sons were also getting some share out of the profit, still the income of Rs. 6,000/- per month can be assessed as independent income of Faquir Chand. In these circumstances, the dependency can always be assessed at Rs. 3,000/- at least.

9. As per Second Schedule appended to the Act, for a victim who was more than 65 years of age at the time of accident, a multiplier of 5 has been indicated. The claimant Taro Devi herself was 63 years of age, therefore, 5 would be an appropriate multiplier to apply in her case. In these circumstances, compensation payable to the claimant Smt. Taro Devi is assessed at Rs. 1,80,000/-. The aforesaid compensation shall, however, include the amount of funeral expenses and consortium. However, the claimants shall also be entitled to interest at the

rate of 9% per annum which has been awarded by the learned Tribunal.

10. Consequently, the present appeal is allowed. The award of the Tribunal is modified to the above extent.