
(1984) 08 P&H CK 0016
In the Punjab And Haryana At Chandigarh

The Oriental Fire and General Insurance Company Ltd.	APPELLANT
Vs	
Bhajan Kaur and Others	RESPONDENT

Date of Decision : 29-08-1984

Acts Referred:

Citation : (1985) 1 ACC 44

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Judgement

S. S. Sodhi, J.

1. The challenge in appeal here is the order of the Tribunal fastening liability upon the Oriental Fire and General Insurance Company Ltd. for payment of Rs. 30,000/- awarded as compensation to the widow and five children of Joginder Singh deceased, who was killed when his car met with an accident with the truck HRA 7240. This happened on May, 9 1976. The impugned award against the Insurance Company cannot indeed be sustained.

2. The insured in respect of the truck involved in the accident, according to the policy of insurance Exhibit R.1, were M/s Raj Transport Company, who were not even impleaded as a party to these proceedings. The Insurance Company could have been called upon to pay compensation in this case only if the insured, that is, M/s Raj Transport Company had been held liable This was not the case here and Tribunal thus fell in error in holding the Insurance Company liable.

3. It may be mentioned in this behalf that according to the claimants, the owner of the truck was respondent Jasbir Singh. Jasbir Singh, no doubt, denied his ownership but he did not come into the witness-box, nor did he lead any evidence to support this stand.

4. Mr. Lakhinder Singh, counsel for the claimants, in an endeavour to hold the Insurance Company liable sought to refer to the statement of respondent jasbir Singh recorded by the Tribunal on October 14, 1977, to the effect that he was the Managing-Partner of M/s Raj Transport Company. This statement was made

by respondent Jashbir Singh in Support of his application for setting aside the ex-parte award made against him. This was a statement made before the Oriental Fire and General Insurance Company had been impleaded as a party and there was, therefore, no occasion for this statement to be challenged in cross-examination by it. At any rate, as has been mentioned earlier, no evidence was led by Jashbir Singh and there could, therefore, be no question of any liability of the Insurance Company arising in this case. It must accordingly be held that the Insurance Company Could not be held liable for payment of compensation in this case.

5. A claim for enhanced compensation against the other respondents was however put-forth by Mr. Lakhinder Singh, counsel for the claimants. The evidence on record shows that Joginder Singh deceased was only 35 years of age at the time of his death. He died leaving behind his young widow and eight children. The Tribunal here rightly took the loss to the dependents at the rate of Rs. 200/- per month. Applying here the principles-laid down by the Full Bench in Lachhman Singh v. Gurmit Kaur 1977 PLR 1, 16 would clearly be the appropriate multiplier. So computed, the compensation payable would work out to Rs. 38,400/-, which may be rounded off to Rs. 40,000/-.

6. The compensation payable to the claimants is accordingly hereby enhanced to Rs. 40,000/-, which the claimants shall be entitled to along with interest at the rate of 12 per cent per annum from the date of the application to the date of payment of the amount awarded. Out of the amount awarded, a sum of Rs. 2500/- each shall be paid to the five minor children of the deceased and the balance to his widow. Liability for the payment of the amount awarded shall be that of respondents Jasbir Singh, the owner and the legal representatives of the truck driver Gurnam Singh deceased to the extent to which they may have inherited the property of the said Gurnam Singh.

7. In the result, both the appeal of the Insurance Company and the Cross-objections filed by the claimants are hereby accepted. There, will, however, be no order as to costs.