
(1995) 06 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From Order No. 1392 of 1995

The United India Insurance Co. Ltd.

APPELLANT

Vs

Sh. Pritpal Singh

RESPONDENT

Date of Decision : 01-06-1995

Acts Referred:

Motor Vehicles Act, 1988 — Section 2(46)

Citation : (1996) 113 PLR 49

Hon'ble Judges : M.L. Koul, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : Raj Kumar Bashamboo, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Singhvi, J.—Feeling aggrieved by the award dated 6.1.1995 passed by the Motor Accident Claims Tribunal, Chandigarh, the insurance Company has preferred this appeal u/s 173 of the Motor Vehicles Act, 1988.

2. The accident in relation to which the claim petition was filed by the heirs of Smt. Jasbir Kaur took place on 7.10.1992 near Dhanas bridge, Union Territory, Chandigarh. Smt. Jasbir Kaur, who was working as Lecturer in the Government Senior Secondary School, Dhanas, and who at the relevant time going on her Kinetic Honda Scooter from Sector 35 to the School, was struck, by a tractor from behind. In the accident Smt. Jasbir Kaur sustained injuries and died. Her heirs (respondents 1 to 3) filed a claim petition for award of Rs. 20,00,000/- by way of compensation. The owner and the driver of the tractor contested the claim, on the ground that the deceased was guilty of negligent driving and her two-wheeler had struck at the back side on the trolley. The insurance company contested the claim on the ground that Sant Singh was not owner of the vehicle and Nachatar Singh was not qualified to be a driver of the vehicle.

3. The Tribunal held that the accident did take place due to rash and negligent driving of the tractor by Nachatar Singh. It further held that income of late Smt.

Jasbir Kaur was Rs. 3294/- per month. By excluding 1/3rd of the salary towards her own expenses the Tribunal declared that the annual dependency was Rs. 26,352/-. On this basis, it held that the total compensation payable to the claimants would come to Rs. 3,68,928/-. Lastly, the Tribunal considered the two contentions raised on behalf of the insurance company, namely, that the trolley which was involved in the accident was not insured with the company and that the licence possessed by the driver was not a valid licence. Both these contentions have been rejected by the Tribunal by giving detailed reasons.

4. We have heard learned counsel for the appellant and have perused the record of this appeal. Shri Ram Kumar, learned counsel for the appellant, has reiterated the two contentions which were raised by the Insurance Company before the Tribunal. His first submission is that the accident in dispute took place with the trolley and not with the tractor and as the trolley was not insured with, the Insurance Company, the Insurance Company cannot be held liable to pay compensation.

5. "Motor Vehicle/Vehicle", "Semi Trailer", "Tractor", and "Tractor" have been defined in Section 2(28), 2(39), 2(44) and 2(46) of the Motor Vehicles Act, 1988. These definitions are quite relevant for the purpose of this case and, therefore, they are being reproduced below:-

2(28) "Motor Vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding thirty-five cubic centimeters;

2(39) "semi-trailer" means a trailer drawn by a motor vehicle and so constructed that a part of it. is super-imposed on, and a part of its weight is borne by, the drawing vehicle;

2(44) "tractor" means a motor vehicle which is not. itself constructed to carry any load (other than equipment used for the purpose of propulsion);

2(46) "trailer" means any vehicle, other than a semi-trailer and a side-car drawn or intended to be drawn by a motor vehicle."

6. Definition of "Motor vehicle" or "vehicle" is comprehensive so as to include any mechanically Propelled vehicle adapted for use upon roads irrespective of the source of power and includes a trailer. "Trailer" has been-defined separately but is also included in the definition of the "Motor vehicle"/"vehicle". Therefore, even though a trailer may be drawn by a motor vehicle, it by itself is a motor vehicle and both the tractor and the trailer taken together would constitute a transport vehicle. If the trailer/trolley is not driven by a tractor, it does not become a vehicle and does not have any independent identity. The very fact, that the

trailer has been included within the definition of "motor vehicle" clearly shows that the legislature did not intend to exclude a tractor together with a trailer/ trolley from the definition of the "motor vehicle" and in our opinion, the findings recorded by the Tribunal about the liability of the appellant do not suffer from any illegality.

7. Second contention of the learned counsel relates to the validity of licence. He argued that the evidence produced by the Company was sufficient to show that the licence possessed by the driver was not valid one because the licence did not bear the signature of the Regional Transport Officer, Indore. In this connection, we may note the following observations made by the Tribunal :-

"Pointed cross-examination was effected on the witness from the relevant record. The register from where the said driving licence was checked up about its genuine-ness pertains to the year 1971 and the first entry therein was of 17.3.1971 and the last entry was of 12.1.1972. The licence, however, is issued on 17.12.1990. It is thus clear that the relevant record of the relevant year was not even gauged by the Concerned official. It thus cannot be said that licence Ex.R-1 as per the statement of Mahesh Bahusar (Ex.R3) is fake and false."

8. Learned counsel has not been able to show as to how the evidence of Mahesh Bahusar could be treated as relevant for the purpose of holding that the licence of Nachhatar Singh was not valid one.

9. No other point has been argued.

10. For the reasons mentioned above, we hold that the appeal is without substance and is liable to be dismissed. We order accordingly.