
(1979) 02 P&H CK 0009
In the Punjab And Haryana At Chandigarh
Case No : F.A.F.O. No. 94 of 1968

Union of India (UOI)

APPELLANT

Vs

Asha Rani and Others

RESPONDENT

Date of Decision : 02-02-1979

Acts Referred:

Citation : (1980) ACJ 134

Hon'ble Judges : S.P. Goyal, J

Bench : Single Bench

Advocate : A.S. Sarhadi, A.G. and N.S. Bhatia, for the Appellant; J.V. Gupta, for the Respondent

Final Decision : Allowed

Judgement

S.P. Goyal, J.—Harbans Lal, an employee of Amritsar Sugar and Oil Mills Limited, Chheharta, was run over by a military jeep at about 7.30 p. m. on September 13, 1966 while proceeding from the city towards Khalsa College and killed at the spot.

2. Respondents, the widow and the minor children of the deceased, filed a claim petition before the Accidents Claims Tribunal alleging that Harbans Lal was killed because of rash and negligent driving of the jeep. The claim was opposed by the Union of India and on the pleadings of the parties, the following issues were framed:

1. Was the accident due to any negligent act on the part of the driver of the vehicle involved ?

1-A. Was the application made within time, and if not, are there sufficient reasons to condone the delay ?

2. What is the quantum of compensation due, if any, and from whom to whom ?

All the issues were decided in favour of the claimants. Under issue No. 2 it was further held that the dependents have been deprived of Rs. 100/- per month and

their annual loss was thus assessed at Rs. 1,200/-. Life expectancy was taken to be 60 years and the deceased being of 45 years at the time of his death, the claimants were allowed loss for 15 years in the amount of Rs. 18,000/-. Aggrieved by the judgment of the Tribunal dated May 15, 1968, the Union of India has come up in this appeal.

3. At the outset, the learned Advocate General Punjab, appearing on behalf of the Appellant, contended that the military jeep involved in the accident was on sovereign duty and, therefore, no compensation could be claimed against the Union of India. This objection cannot be allowed to be urged because no such plea was taken in the written statement nor any issue framed. The claimants therefore, got no opportunity to meet this objection or to lead any evidence. This objection, therefore, is overruled.

4. It was next contended that from the evidence on the record, it cannot be said that the accident took place because of the negligent driving of the jeep. The claimants, in support of their case, examined A. W. 2, Ajit Singh and A. W. 3 Beant Singh who stated that the deceased was going on the correct side of the road on the bicycle when he was struck by the jeep coming from the opposite side which was being driven rashly and negligently. The statements of these two witnesses were believed by the learned Tribunal and nothing has been brought to my notice which could persuade me to take a different view. The finding of the Tribunal on issue No. 1 is consequently confirmed.

5. As regards the amount of compensation, the learned Advocate General relying on Regular First Appeal No. 336 of 1964 (Lachhman Singh and Ors. v. Gurmit Kaur and Ors. 1979 A.C.J. 170) by a Full Bench of this Court submitted that the Tribunal has erred in law in assessing the damages by multiplying the number of years by which the life expectancy was shortened with the annual loss. If damages were to be assessed in this manner then the Tribunal was bound to reduce the compensation thus assessed taking into view the various imponderable circumstances noticed in the Full Bench case. But now the damages are to be determined by multiplying the amount of the annual loss by a suitable multiplier to be arrived at in accordance with the principle laid down in the said case. The person involved in the accident was an unskilled labourer aged 45 years. Keeping in view all these imponderable circumstances, I feel a multiplier of 10 would be suitable to arrive at the pecuniary loss caused to the dependents. Thus, the calculated amount of pecuniary loss is assessed at Rs. 12,000/-.

6. Consequently, this appeal is allowed to the extent mentioned above and the amount of damages awarded to the Respondents is reduced from Rs. 18,000/- to Rs. 12,000/-. No costs.