

(1985) 05 P&H CK 0025
In the Punjab And Haryana At Chandigarh

United India Fire and General Insurance Company	APPELLANT
Vs	
Daljit Kaur and Others	RESPONDENT

Date of Decision : 13-05-1985

Acts Referred:

Citation : (1985) 2 ACC 491

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

Bench : Single Bench

Judgement

S.S. Sodhi, J.—A Punjab State Tube-well Corporation Jeep PUR 2448 travelling on the Ludhiana-Cbandigarh road was hit into from behind by the Lok Sewak Bus Service Private Ltd. Bus PBS 955 as also by the Punjab Road-ways bus PUR 1627 coming from the opposite direction. In the resultant accident, Avtar Singh Thind, Executive Engineer who was travelling in this jeep was killed while Jagwant Singh, the driver of the jeep, sustained serious injuries. This happened on September 4, 1978, at about 9.30 a.m. near village Rurki Pukhta on the road between Morinda and Kharar.

2. The Tribunal held this to be a case of composite negligence with both the bus drivers being equally to blame. No part of the blame was fastened upon the jeep driver. A sum of Rs. 1,96,000/- was awarded as compensation to the widow and children of Avtar Singh deceased while Rs. 13,000/- were awarded to Jaswant Singh, the driver of the jeep for his injuries. The claims in cross-objections is for enhanced compensation.

3. Taking up the case of Avtar Singh Thind deceased, the evidence on record would show that he was about 41 years of age at the time of his death, iis date of birth being June 1, 1937. He died leaving behind his widow PW 7 Daljit Kaur, who was 37 years of age and their three daughters ranging in age from 2 to 10 years. Avtar Singh deceased was working as Executive Engineer with the Punjab State Tube well Corporation. He was there on deputation. According to PW 8 Sudesh Kumar Sharma of the Punjab State Tube well Corporation, his total emoluments were about Rs. 1,700/- per month. Similar was the testimony of PW

6 Balwant Singh, Legal Assistant of the Corporation. In considering the income and emoluments of Avtar Singh Thind deceased, Mr. L.M. Suri, counsel for the owners of the bus PBS 955 Laid great stress upon the fact that included in his earnings was a deputation allowance of 20 per cent which he would have ceased to receive on his reversion to his parent department. The deputation allowance here was at the rate of Rs. 172/- per month. Besides that, he argued that the amount being paid by the deceased as Income Tax should also be accounted for. These are indeed valid considerations to be kept in view in assessing the loss suffered by the claimants.

4. Taking an overall view of the circumstances of the claimants and the deceased in the context of the principles Laid down by the Full Bench in Lachhman Singh v. Gurmit Kaur, 1979 PLR 1 there can be no manner of doubt that the appropriate multiplier here must be taken to be 16. Further, no exception can be taken to the Tribunal in assessing the dependency of the claimants at Rs. 1,200/-per month. This would work out to Rs. 2,28,400/-, which may be rounded off to Rs. 2,30,000/-. The claimants are indeed entitled to this sum.

5. Turning now to the claims for enhancement of compensation put-forth on behalf of the driver of the jeep Jaswant Singh, a reference to the testimony of PW 4 Dr. Narpinder Singh Thind of the Postgraduate Medical Institute would show that there were four injuries mentioned in the Discharge Slip. These being:

1. Fracture of pelvis with retro-peritoneal haematoma.
2. Lacerated wound over the scalp in the right fronto-parietal region.
3. A lacerated wound over the right side of abdomen.
4. Abrasion over the left knee, left ankle and left leg.

It was further the testimony of PW 4 Dr. Narpinder Singh Thind that Jaswant Singh remained admitted in the hospital for about 26 days, i.e., from September 4 to September 30, 1978, and that even after his discharge from; hospital, he had been coming to the hospital for treatment.

6. Deposing to his injuries, the claimants PW 5 Jagwant Singh deposed that he received injuries on different parts of his body including a fracture on his head, right flank and fracture of the pelvic bone. He also received injuries on his right leg. On account of his injuries, even after his discharge from hospital, he could not attend to his duties and had to remain on leave without pay till December 14, 1978. He stated that he may have spent Rs. 2,000/- on medicines. He had applied for re-imbursement from his department, but had not been paid any money in respect thereof so far.

7. Next to note is the testimony of PW 3 A K. Sharma of the Punjab State Tube well Corporation, who deposed that Jagwant Singh remained on leave without pay from September 5, 1978 to December 14, 1978. He was drawing Rs. 424.60 per month and the loss thus occasioned to him worked out to Rs. 1404.30.

Evidence was also led with regard to the amounts spent by the claimants on his medical treatment.

8. It would be seen that the nature and extent of the injuries suffered by the claimants was undoubtedly such that he must have undergone a great deal of pain and suffering with consequent loss of enjoyment of life and that too for several months. In addition, he suffered financial loss too by having to remain on leave without pay. As regards medical expenses, it is no doubt true that the claimants was entitled to medical reimbursement, but as is well-known, such reimbursement does not cover all the expenses that an injured actually incurs, for example, of special diet, transportation to and from hospital and of attendants that may be required for him.

9. Taking an overall view of the circumstances of the claimants in the context of the injuries suffered by him and their effects, it would be fair and just to hold him entitled to a round sum of Rs. 20,000/- as compensation.

10. The compensation payable to the claimants in the case of Avtar Singh Thind deceased is accordingly hereby enhanced to Rs. 2,30,000/-. Out of the amount awarded, a sum of Rs. 25,000/- each shall be payable to the children of the deceased and the balance to his widow. The amount payable to the minor claimants shall be paid to them in such manner as the Tribunal may deem to be in their best interest.

11. In the case of the claimants Jagwant Singh, the compensation payable to him is enhanced to Rs. 20,000/-.

12. The claimants shall be entitled to the compensation awarded 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. Both the bus drivers, owners as also the United India Fire and General Insurance Company Ltd. shall be jointly and severally liable for payment of the compensation awarded. The liability of the respondent-Insurance Company shall, however, be limited to Rs. 10,000/- in the case relating to Avtar Singh Thind deceased.

13. In the result, the cross-objections filed by the claimants are accepted while all the appeals are dismissed with costs. Counsel's fee Rs. 500/-.