
(2002) 01 P&H CK 0049
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 223 of 2002

United India Insurance Company

APPELLANT

Vs

Jarnail Singh

RESPONDENT

Date of Decision : 16-01-2002

Acts Referred:

Citation : (2003) 1 LJR 585 : (2002) 4 RCR(Civil) 125

Hon'ble Judges : G.S.Singhvi, J and Ashutosh Mohunta, J

Advocate : Shri Ravinder Arora, Advocate., Advocates for appearing Parties

Judgement

G.S. Singhvi, J.—This appeal is directed against award dated 18.9.2001 passed by Motor Accident Claims Tribunal, Patiala (for short, "the Tribunal") in M.A.C.T. case No. 43 of 1999.

2. The facts necessary for deciding the appeal are that Smt. Manjit Kaur, who was travelling in jeep No. HR29J0038 along with her family was killed when a bus belonging to Punjab Road Transport Corporation struck against the jeep. The dependents of Smt. Manjit Kaur, i.e. the respondents filed petition under Section 163A of the Motor Vehicles Act, 1988 for award of compensation amounting to Rs. 30 lacs by alleging that the accident had been caused due to rash and negligent driving of the jeep and the bus. They averred that the deceased was about 30 years of age at the time of accident and was earning Rs. 5,000/ per month by running a milk dairy in the village.

3. In their written statement, the driver and owner of the jeep challenged the maintainability of the petition on the ground of nonjoinder of necessary parties. On merits, they denied the allegation of rash and negligent driving of the jeep and averred that the accident had been caused because the bus driver had taken the vehicle on wrong side of the road and struck against the jeep. They also disputed the assertion of the claimants about the age and income of the deceased.

4. The appellant contested the claim petition by stating that respondent No. 1

was not holding a valid driving licence; that the jeep was being plied in violation of the terms and conditions of the policy and that the claim petition was bad for misjoinder and nonjoinder of necessary parties. It also denied that the jeep was being driven by respondent No. 1.

5. On the pleadings of the parties, the learned Tribunal framed the following issues :

"1. Whether Manjit Kaur wife of Karnail Singh died in motor vehicular accident on 1.2.1999 as alleged ? OPA

2. Whether the claimants are entitled to compensation as prayed for ? OPA

3. Whether the claim petition is bad for nonjoinder of necessary parties ? OPR

4. Relief."

6. After recording the evidence of the parties and analysing the same, the Tribunal decided all the issues in favour of the claimants but awarded compensation to the tune of Rs. 1,02,000/ only with interest at the rate of 9% per annum from the date of petition till realisation.

7. Shri Ravinder Arorar argued that the impugned award should be declared as vitiated by an error of law because the Tribunal has failed to deal with the issue relating to the liability of the appellant. Learned counsel argued that the Tribunal has failed to consider the fact that the jeep was being driven in violation of the terms and conditions of the policy and, therefore, the appellant was not liable to pay compensation. He further argued that the Tribunal's failure to frame issue on the question of validity of driving licence of respondent No. 1 has resulted in manifest injustice to the appellant and, therefore, the case may be remanded to the Tribunal for fresh consideration.

8. We have given serious thought to the arguments of the learned Counsel.

9. In so far as the last point raised by the learned Counsel is concerned, it is sufficient to observe that the appellant did not challenge the issues framed by the Tribunal and did not press for framing of a specific issue on the validity of driving licence of respondent No. 1. Therefore, at this stage, the appellant cannot make a grievance about the nonframing of issue and non determination of its plea regarding validity of driving licence.

10. The argument of Shri Arora that the appellant could not have been held liable to pay compensation is based on the misconceived notion about its liability visavis the heirs of the deceased. There cannot be any quarrel with the proposition that the Insurance company cannot be held liable in case the driving licence is invalid. However, the same has no application in the matter of award of compensation to the claimants and the only remedy available to the Insurance company is to file a suit for recovery of the amount of compensation from the owner and driver of the vehicle or adopt any other legally permissible course for this purpose.

11. Hence, the appeal is dismissed. However, liberty is given to the appellant to recover the amount of compensation paid to the heirs of the deceased from the owner and driver of the jeep by availing appropriate legal remedy.