

Chameli Devi and ors. Vs. State of Haryana and ors.

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Court : Punjab and Haryana

Decided On : Jan-16-1992

Reported in : (1993)105PLR106

Judge : R.S. Mongia, J.

Acts : [Motor Vehicles Act, 1939](#) - Sections 110A and 110CC

Appeal No. : First Appeal from the Order No. 1090 of 1985

Appellant : Chameli Devi and ors.

Respondent : State of Haryana and ors.

Advocate for Def. : Paul S. Saini and; Pardeep Bedi, Advs. for Respondent No. 4 and;

Advocate for Pet/Ap. : Naubat Singh Panwar, Adv.

Disposition : Appeal allowed

Judgement :

R.S. Mongia, J.

1. On 19.10.1982 the Bus run by Motoria Bus Sevice in which Ram Karan, husband of appellant No. 1 Chameli Devi, was travelling, met with an accident with Haryana, Roadways Bus resulting in the death of said Ram Karan. Chameli Devi,

widow, 4 minor children of Ram Karan-deceased as also his father filed the claim application for grant of compensation before Motor Accident Claims Tribunal, Sirsa. Motor Accident Claims Tribunal vide his award dated 5.9.1985 held that the accident had been caused due to negligence of the driver of Haryana Roadways Bus. To the above said claimants, the Tribunal awarded compensation of Rs. 25,200/- in all and it was further ordered that if the amount of compensation was not made within 30 days of the date of the Award, the claimants would be entitled to the interest on compensation at the rate of 12% per annum from the date of the Award till realization. It may be observed here that Ram Karan was working as a Mate in the Irrigation Department and was drawing Rs. 500/- per mensem as his salary and at the time of his death he was about 37 years of age. The Tribunal while computing the compensation held that the dependency of the claimants was only to the extent of Rs. 150/- per mensem and had applied a multiplier of 14. Dissatisfied with the Award of compensation, the claimants have come up in the present appeal. Before advertng to the arguments, it may be observed here that the Appeal of the State against the Award of the Tribunal (FAO No. 47 of 1986) was dismissed in limine by this Court on 18.2.1986.

2. Mr. Naubat Singh Panwar-Advocate, appearing on behalf of claimants-appellant, has submitted that the Tribunal has grossly erred in holding that the dependency of the widow, 4 minors and the father was only Rs. 150/- per mensem and the rest of Rs. 350/- was being spent by the deceased on himself. He has further submitted that multiplier of atleast 16 should have been applied if not more. In support of his contention, he has cited a Division Bench Judgment of this Court in Secretary, Ministry of Communications, Government of India, New Delhi v. Amar Kaur and Ors., 1989(1) A.C.J. 82. In that case, the deceased was a labourer of 38 years of age and earning Rs. 400/- per mensem and it was held in that case that dependency of the widow, 5 minor children was Rs. 300/- and multiplier of 16 was applied.

3. Learned counsel for the respondents could not successfully counter the argument of the learned counsel for the appellants.

4. After hearing the counsel for the parties I am of the view that the Tribunal was wrong in holding that the dependency was only Rs. 150/- and Rs. 350/- was being spent by the deceased on himself. The status of the deceased was that of a Mate and in normal circumstances a major share of his earnings would normally be spent on the family which consisted of a widow, 4 minor children and his father. It would be reasonable to assess that the deceased was spending about Rs. 350/- on the family members and Rs. 150/- on himself. Consequently, I hold that the dependency of the claimant was Rs. 350/- per mensem. As observed above the deceased was 37 years of age and there is nothing on the record to show that he was suffering from any disease or any such like thing. In such circumstances this Court has been applying a multiplier of 16 as was done in the above referred case decided by the Division Bench. I am of the opinion that multiplier of 16 should have been applied. Consequently the compensation payable to the claimant would come to Rs. 67,200/-. The claimants would be entitled to interest at the rate of 9% per annum from the date of application. The Respondent-State is directed to make the payment of compensation as indicated above (after deducting the amount paid, if any) within 3 months from today. There will be no order as to costs.