

Sukhdarshan Singh Vs. Ranjit Kaur and ors.

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Court : Punjab and Haryana

Decided On : Feb-12-1992

Reported in : II(1992)ACC252; 1992ACJ787

Judge : V.K. Jhanji, J.

Acts : [Motor Vehicles Act, 1939](#) - Sections 95 and 110A

Appeal No. : First Appeal from Order No. 1266 of 1989

Appellant : Sukhdarshan Singh

Respondent : Ranjit Kaur and ors.

Advocate for Def. : Kanwal Jit Singh, Adv. for Respondent Nos. 1 to 4 and; Sumeet Mahajan, Adv. for Respondent No. 5

Advocate for Pet/Ap. : J.S. Randhawa, Adv.

Disposition : Appeal dismissed

Judgement :

V.K. Jhanji, J.

1. The appeal has been preferred by the truck owner against whom, a claim petition was filed by the respondents-claimants, and the Motor Accident Claims Tribunal passed an award of Rs. 2,40,000/- as compensation in favour of the

claimants, with 12% interest per annum, on account of death of Ram Singh due to injuries sustained by him in the accident.

2. The brief facts of the case are that Ram Singh and his wife, Ranjit Kaur, while going from their house, met with an accident as a result of which, Ram Singh died after 51 days of hospitalisation. As per the claimants (respondents herein), the truck being driven by Kuldip Kumar came at a rash speed and without blowing horn, negligently struck against the motor cycle causing multiple injuries to Ram Singh and his wife. Ram Singh who was removed to CM C. Hospital, Ludhiana, after the accident, succumbed to his injuries after 51 days' admission in the said hospital. A claim petition was filed by his widow, Ranjit Kaur, son Harpreet Singh, father-Teja Singh and mother Mahinder Kaur. The deceased at the time of accident was 29 years of age and earning Rs. 1519/- per month. The Motor Accident Claims Tribunal on the basis of evidence adduced before it by the parties to the claim petition, found that the accident occurred due to rash and negligent driving of truck driver. Ram Singh, deceased, was employed as a Cashier-cum Clerk, and at the relevant time, was drawing Rs. 1430/- per month, and after taking into consideration that he must be spending 1/3rd on himself, the dependency of the claimants was determined at Rs. 1000/- per month. The Tribunal after applying a multiplier of 20, awarded a sum of Rs. 2,40,000/- to the claimants, and fixed the liability of the Insurance Company at Rs. 1,00,000/-. The truck owner being aggrieved by the award of the Tribunal has challenged the same in the present, appeal.

3. Mr. J. S. Randhawa, learned counsel for the appellant vehemently argued that the Motor Accident Claims Tribunal was not justified in finding that the deceased must have been spending 1/3rd on himself, rather he stated that he must have been spending much more than that; therefore, the dependency of the claimants cannot be determined at Rs. 1,000/- per month. He also contended that liability of the Insurance Company is unlimited and not to the extent of Rs. 1,50,000/. In support of this, he relied upon a judgment of this Court in *Smt. Kako Devi and Ors. v. Gian Parkash Gupta*, (1990-1)97 P. L R. 483.

4. On the other hand, learned counsel for the claimants submitted that the Tribunal has taken into consideration the entire evidence on record, while awarding the compensation and therefore, no interference is called for in the appeal.

5. After hearing learned counsel for the parties at length, I find no merit in the appeal.

6. It is not disputed before me that at the time of accident, the deceased was only 29 years of age. Apart from supporting his wife and a minor son, he was also supporting his aged father and mother therefore, I am not in agreement with the contention of learned counsel for the appellant that the deceased must have been spending more than 1 /3rd on himself. As far as applying a multiplier of 20 in the present case is concerned, this Court in *Smt. Kiarn Wati Widow v. Had Singh*, (1991-2) 100 P. L. R 555. where the deceased was (sic) years of age, applied a multiplier of 20, and in *Smt. Urmila Devi and Ors. v. Baljit Singh*, (1989-1) 95 P. L. R. 562. where the deceased was 39 years of age, applied a multiplier of 20. Therefore, considering the age of deceased, the Motor Accident Claims Tribunal justifiably applied a multiplier of 20.

7. The Motor Accident Claims Tribunal while fixing the liability of Insurance Company to the extent of Rs. 1,50,000/- took into consideration the Insurance policy, R-1 and Cover note, R-3. On perusal of Insurance policy, I find that the liability of the Insurance Company is limited to the extent of Rs. 1,50,000/-. The note of the Insurance Company makes the liability of the Insurance company to be 'such amount as is necessary to meet the requirement of M. V. Act 1939'. The Insurance Company, in its written statement, took a specific plea that its liability was limited. This very clause came up for consideration before a Division Bench of this Court, in *Pt. Ram Parkash and Ors. v. Smt. Kania Suri*, (1987-2) 92 P. L. R. 169 wherein it was held that where there is a specific plea of the Insurance Company regarding the limit of its liability, backed up by the policy of insurance brought on record expressing therein its limitation of liability as per the expression used, the liability of the Insurance Company is limited to the statutory limit. It is not disputed before me that at the relevant time the statutory limit was Rs. 1,50,000/-. The judgment in *Smt. Kako Devi and Ors. v. Gian Parkash Gupta*, (1987-2) 92 P.

L. R. 169, relied upon by learned counsel for the appellant, is not applicable to the facts of the present case because in that case, the policy did not contain such an expression, and therefore, it was held that the liability of the Insurance Company extends to the entire amount awarded.

8. Resultantly, the appeal is dismissed being without any merits. However, there shall be no order as to costs.

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