

Mantha Devi Vs. Gopal Singh

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Court : Delhi

Decided On : Jan-22-1986

Reported in : I(1986)ACC462; 29(1986)DLT525

Judge : S.B. Wad, J.

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

Appeal No. : First Appeal No. 134 of 1974

Appellant : Mantha Devi

Respondent : Gopal Singh

Advocate for Pet/Ap. : O.P. Goyal and; S.M. Suri, Advs

Judgement :

S.B. Wad. J.

(1) This is a claimant's appeal for enhancement of compensation, The Tribunal has awarded Rs. 20.750.00 towards compensation. The claimants have claimed Rs. 90.000.00 as the compensation. There is a cross appeal filed on behalf of the owner of the vehicle and the Insurance Company.

(2) The accident took place on 18.1.69 at Chirag Delhi road, near Railway crossing, New Delhi. Deceased Belam Singh was going on his cycle from his Office, viz. Central Road Research Institute, towards his home in Sewa Nagar. He

took a turn at Chirag Delhi and at that time Bus No. Dlp 3663 came from the Mathura Road side and in an attempt to take a turn to Chirag Delhi road came on the the wrong side. The bus hit the cyclist violently. Deceased Belam Singh fell down and was run over by both the wheels of the bus. As a result of the injuries sustained, Belam Singh died on the spot.

(3) The post-mortem report submitted by Dr. M.K. Babu showed that the liver of the deceased was lacerated and was covered with blood. The abdominal cavity was also covered with blood. According to the Doctor he died due to shock and hemorrhage from lacerated wound over the abdomen. It is clear that the deceased died of the injuries sustained by over-running of the bus. The Fir was produced in the evidence. The police photographer had taken the photographs of the scene of the accident. The site plan was prepared and was produced in the evidence. It is clear from the evidence on record that the accident was caused by the bus in question. The petitioner examined Shri Dharam Raj. Public Witness 6 ; Shri Madan Lal Public Witness 7 ; Shri Prithvi Raj Pw 8 ; and Shri Asharfi Lal Public Witness 10. These are all the eye witnesses. I am 527 taken through their evidence. There is nothing in their evidence to disbelieve them.

(4) The respondents had contended that the accident was caused because of the negligence of the cyclist who did not take proper precaution while taking the turn. The driver of the Bus, Mr. Gopal Singh, who appeared as respondent No. 1 was convicted by the criminal court. One Mr. Christopher has been examined by the respondent. According to him, he was repairing the motor cycle at the time when the accident took place. He admitted in his cross-examination that he could not state whether the bus came at a fast speed, but he tried to maintain that the bus slowed down at the turn. He admitted that he was not summoned by the Court but he was brought to the Court by respondent No. 1.

(5) The evidence produced on behalf of the respondents does not dislodge the reliable testimony of the eye witnesses. I agree with the Tribunal that the accident was caused by rash and negligent driving of the bus in question, resulting in the death of Belam Singh. In the cross-objections filed on behalf of the owner of the bus and the Insurance Company, the liability for accident is tried to be disowned.

However, considering the evidence of the witness of the respondents themselves, there is no substance in the said objection. The cross-appeal has, therefore, no merit.

(6) The claimants have claimed Rs. 90,000.00 compensation. The Tribunal has awarded a sum of Rs 20,750.00 as the compensation. At the time of the accident, deceased Belam Singh, was working as a 'Khalasi' in the Central Road Research Institute and was drawing a salary of Rs. 200.00 per month. The Tribunal was wrong in taking Rs. 100.00 towards the personal expenses of the deceased.

(7) The personal expenses cannot exceed 1/3rd of the amount. Considering this aspect, his monthly contribution to the family is to be taken at Rs.130.00 . The deceased was 30 years old at the time of the accident. The Tribunal has computed life expectancy at 35 years and on that basis worked out the amount of compensation. After working out the compensation, the Tribunal has deducted Rs. 40.00 per month, which was the pension amount being paid to the widow under the government rules. I do not find it a satisfactory method of compensation.

(8) The deceased would have retired at the age of 60 years and thus would have earned at least the same amount of Rs. 200.00 per month for 30 years more. On this basis, the compensation amount would come to Rs. 46,800.00 . I have taken a view that where the salary is as low as Rs. 200.00 per month, i.e. almost equal to the minimum wages, no deductions should be made, which are normally permissible. The deduction on lump sum amount is, therefore set aside. The claimants, are, therefore, entitled to compensation of Rs. 46,800.00 . They are also entitled to 9 per cent simple interest from the date of the application till the date of payment.

(9) The counsel for the Insurance Company states that the liability of the Insurance Company was limited at that time of Rs. 20,000.00 only. No policy was produced in the Trial Court. The matter was contested before the Tribunal by the Insurance Company both on its behalf and on behalf of the 528 owner. Since the policy was not produced and the Insurance Company preferred to contest the entire claim, it can be safely assumed that the policy was a comprehensive policy without any limits of liability. I, therefore, hold that the Insurance Company is liable to pay the

entire compensation and the interest.

(10) The cross-appeal is dismissed. FAO. 134/1974 is allowed.

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