

Hiro Devi and ors. Vs. Prem Singh and ors.

Hiro Devi and ors. Vs. Prem Singh and ors.

SooperKanoon Citation : sooperkanoon.com/691895

Court : Delhi

Decided On : Aug-22-1985

Reported in : 1986(11)DRJ272

Judge : S.B. Wad, J.

Acts : [Motor Vehicles Act, 1939](#)

Appeal No. : First Appeal No. 50 of 1974

Appellant : Hiro Devi and ors.

Respondent : Prem Singh and ors.

Advocate for Pet/Ap. : S.K. Kapoor,; Atul Kumar and; K.P. Kapoor, Advs

Judgement :

S.B. Wad, J.

(1) These are two cross-appeals. F.A O. No. 50/74 is filed by Hiro Devi, widow of the deceased Mangat Ram, for herself and as next friend of three minor children. The appeal is for the enhancement of the compensation awarded by the Motor Accident Claims Tribunal on 18-9-73. She had claimed a sum of Rs 30,000.00 , but the Tribunal awarded only Rs. 5,100.00 towards compensation. Appeal Fao 208/73 is filed by Ganga Dass. who was the owner of the vehicle at the time of the accident.

(2) The accident took place on G.T. Road, in front of the Factory of Raj Vaid Sheetal Prasad, Shahdara on 14-12-65. Deceased Mangat Ram was taking tea at a stall on the road-side. Truck No. Dlg 5999 was coming from Delhi-Shahdara side and was going towards Ghaziabad. It suddenly turned to its right and after going on the kutchra road smashed the tea stall and ran over the deceased. The fact of the accident and the circumstances in which it took place are not contested by Ganga Dass in his appeal. It is, therefore, not necessary to go into the evidence in regard to the said facts. It is admitted that Truck No. Dlg 5999 caused the accident resulting in the death of Mangat Ram.

(3) Truck No. Dlg 5999 was originally owned by one Prem Chand. The accident took place on 14-12-65 in which Mangat Ram died. Ganga Dass has stated in his evidence that he had purchased the said vehicle from Shri Prem Chand before the accident. Prem Chand died 2/4 days after selling the vehicle to him. The registration of the vehicle was done by him in his own name after the accident. Ganga Dass claims that Prem Chand was the registered owner of the vehicle at the time of the accident and not he. A submission on his behalf is that the liability is of the registered owner and since the vehicle was insured, the liability was of the Insurance Company.

(4) The principles of liability for accident by a vehicle are a branch of law of torts. The [Motor Vehicles Act, 1939](#) has made some procedural provisions for enforcement of such liability. Section 94 lays down that no person shall use, except as a passenger, or cause or allow any other person to use the motor vehicle in a public place unless there is any force in relation to the use of the vehicle by that person or that other person as the case may be, a policy of insurance complying with the requirements of Chapter VIII. Section 95 states the requirements of policies of insurance and limits of liability. Section 96 creates a duty for the Insurance Company to satisfy judgments against persons insured in respect of third party risks. This statutory duty is in addition to the contractual obligation of the Insurance Company under the insurance policy. Section 22 obliges owners as well as the drivers of the vehicles in public places unless the vehicles are registered. Section 31 provides for change in the registration and transfer of ownership of a vehicle. A transferor is required within 14 days of the

transfer to refer the fact of transfer to the registering authority with a copy to the transferee. The transferee shall within 30 days of the transfer report the transfer to the registering authority for recording the transfer of ownership in the certificate of registration. Failure of the transferor and the transferee to get the registration certificate amended is an offence punishable under Section 112 of the Act.

(5) Normally, the owner of the vehicle is also the registered owner of the vehicle. However, a hiatus may be created between the real ownership and registered ownership during the period within which the steps for recording the transfer of ownership are being taken by the transferor or the transferee under Section 31. The transfer of ownership in a vehicle is governed by the general law of transfer such as the Sale of Goods Act. Primarily, the liability for the accident is of the owner if he is driving the vehicle himself or through his agent. He can pass on his liability to an insurer by means of a contract. In the present case the vehicle was owned by Prem Chand and was registered in his name. He sold the vehicle to Ganga Dass. Ganga Dass started using the vehicle and his agent Prem Singh, driver, caused the accident. Ganga Dass got the registration transferred in his name after the accident. The registration continued in the name of Prem Chand at the time of the accident. Since Prem Chand had already sold the vehicle when the accident took place and the vehicle was not under his control or charge thereafter, no liability would pass on to him in law only by virtue of registration. Prem Singh, driver, was also not in the employment of Prem Chand. The contract of insurance between the Insurance Company and Prem Chand came to an end with the death of Prem Chand. Therefore, there was no liability for the insurance company. Ganga Dass was admittedly the owner of the vehicle at the time of the accident and it is his driver who caused the accident. The Tribunal was thus right in holding Prem Singh and Ganga Dass liable to pay compensation to the heirs of the deceased.

(6) It has come in evidence that deceased Mangat Ram was owning a she-buffalo and was selling milk of his own she-buffalo as well as milk purchased from other people. His widow Hiro Devi has stated that he was earning Rs. 8.00 to Rs. 9.00 per day. Charan Singh PW/7 has stated that the deceased was earning about Rs. 12.00 per day. The Tribunal was, therefore, not right in holding that the

monthly income of the deceased was Rs 100.00 . On the basis of evidence hold that the monthly income of the deceased was Rs. 250.00 . The Tribunal further erred in holding that the deceased wa spending Rs. 50.00 per month for his personal expenses and was contributing Rs. 50.00 towards maintaining his family. This approach is unrealistic. The deceased was supporting a family consisting of his wife and three minor children. Considering this aspect of the matter I hold that the deceased was contributing at least Rs. 175.00 per month for the maintenance of his family. In the humble circumstances of the family it is reasonable to hold that he would not be spending more than 1/3rd of the earnings on himself. ItakeitatRs.75.00 per month. The deceased was about 50 years old at the time of the accident. Considering the rise in the normal expectancy and the Fact that all the three children were minors at the time of the accident, it is reasonable to take the multiplier at 15. On this basis the compensation of Rs. 30,000.00 claimed by the claimants is not excessive I make an award of Rs. 30,000.00 in favor of the claimants. They are also entitled to 12 per cent simple interest from the date of the application till the date of payment. A sum of Rs. 5,100.00 , as awarded by the Tribunal is already withdrawn by the claimants on furnishing the security, Ganga Dass is, thereforee, entitled to the said amount of Rs. 5, 100.00 already paid to the claimants. The amount was paid in 1975. The interest awarded shall be calculated as follows :

(A)Simple interest at 10 per cent from the date of application to the date of payment of Rs 5, 100.00 from the principal amount of30,000.00 ; (b) From the date of the payment of Rs.5,100.00 the interest shall be calculated on Rs. 24, 900.00 at 12 per cent.

(7) FAO. 208/73 is dismissed and FAO. 50/74 is allowed. The security given by the claimants is discharged.