Sabo Devi and ors. Vs. Pritam Singh and ors.

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Court : Delhi

Decided On : Jul-25-1985

Reported in : 2(1985)ACC393

Judge : S.B. Wad, J.

Appellant : Sabo Devi and ors.

Respondent : Pritam Singh and ors.

Judgement :

S.B. Wad, J.

1. This is an appeal filed by the widow and mother of Shri Binda Singh, who died as a result of an accident which took place on 12-6-67 at 8.00 a.m. on the main Gandhi Nagar road near Government Higher Secondary f School within the limits of Police Station Gandhi Nagar, Delhi. On the day of the accident Binda Singh was going form Jheel Kurenja to Delhi on his cycle. Truck No. DLG 8965 driven by Respondent No. 2 (Badam Singh) and owned respondent No. 1 (Pritam Singh) came from behind in a fast speed without any horn. The speeding vehicle knocked down the deceased and ran over the cycle the deceased, causing instantaneous death.

2. Dr. S.S. Kaushal P.W. 4 who had conducted the post-mortem examination stated the following injuries on the body of the deceased: (1) Face compressed

from side to side. (2) Scattered abrasions all over face, left side neck, chest, left shoulder, left thigh and dorsem of right hand. He also found that all the skull bones were crushed at multiple places and brain matter was missing from cranial cavity. He also found the tyre marks all over the body. 1st to 5th ribs on the left side and collar bone were fractured. It is clear that Binda Singh died of the crash caused by the truck in question. P.W. 2 Nasib Singh has proved the F.I.R. The site plan was prepared which is exhibited as P.W. 6/1. The site plan showed that the cycle had come underneath the truck. On the mechanical inspection it was found that the cycle was damaged considerably. There were scratches on the front number of the truck on the left side. The FIR, the site plan and the mechanical inspection report confirm that the truck in question was involved in the accident. A number of eye witnesses were produced by the claims ants. The Tribunal has relied on the evidence of Man Mohan Singh P.W. 5 who was an eye witness. He was present at the time when the police prepared the site plan. He has completely confirmed the version of the claims ants. He has further stated that the truck hit the cycle from behind. The cycle and the cyclist were run over. He has further stated that the truck did not immediately stop but went over a distance of 105 ft. and then stopped. This fact is confirmed also by the site plan.

3. I was taken through the evidence by the counsel for the parties. No evidence to contradict the statement of P.W. 5 was shown by the counsel for the respondent. The version of the respondents in the written statement was that the negligence of the cyclist caused the accident. But, no evidence was produced by the respondents. Even the driver of the truck was not examined. On going through the oral and documentary evidence on record, I hold that the accident was caused by truck No. DLG 8965 which was being run in a rash and negligent manner and the death of Binda Singh was the result of the accident. There is no merit in the cross-objections and they are dismissed.

4. The Tribunal has awarded a sum of Rs. 15, 360/- as compensation. On the basis of the evidence of Dr. S.S. Kaushal, P.W. 4 the Tribunal has come to the conclusion that the age of the deceased at time of the accident was 28 years.The Tribunal, thereafter, held that it was reasonable to believe that the deceased would have lived up to the age of 60 years. For the purposes of computation of the

compensation the Tribunal took 32 years as the period of dependency and multiplier. I find no reason to disturb this finding of the Tribunal. On the basis of evidence on record, the Tribunal has rightly come to the conclusion that the deceased was carrying on the business of waste paper. His widow has stated that the income of the deceased was about Rs. 350/- per month and that he was sending Rs. 200/- to Rs. 250/- per month'to her. Admittedly the widow was not staying with the deceased at the time of the death. In fact she had hardly stayed with him at Delhi. It may be because she was very young and according the social customs she had not joined the husband at Delhi. Sukh Lal P.W. 7 stated in his evidence that the deceased was working as a commission agent with him. But he could not state a definite figure about his income. He stated that he would be earning from Rs. 10/- to 20/- per day. The Tribunal found that there was no definite and reliable evidence regarding the income of the deceased. In the business of waste paper it is difficult to get the exact evidence regarding the income of a man. The widow was not staying with the deceased and thereforee, her evidence is not of much value. So is the case with the evidence of Sukh Lal who could not give any definite income. In these circumstances the Tribunal was quite right in holding that the deceased must at least be earning as much as a daily wage-earner, at the time of accident. The Tribunal, thereforee, held that the monthly income of the deceased was Rs. 150/-. On the study of the evidence on record I do not find that the Tribunal's finding is unreasonable. I thereforee agree with the Tribunal that the monthly income of the deceased was Rs. 150/-. Having said this, it must be stated that the Tribunal was in error in holding that the deceased was contributing only Rs. 50/- for the support of his family. It is in evidence that apart from the mother, his minor sisters and sons were staying with him and he was the only bread earner of the family. It would be unreasonable to assume that in these circumstances the deceased was spending Rs. 100/- on his personal expenses, while he was contributing only Rs. 50/-for his family. I would, thereforee, hold that he was spending only 1/3rd of his income on his self. The income available to the family was Rs. 100 per month. The Tribunal has already taken the multiplier of 32. The claims ants are, thereforee, entitled to compensation of Rs. 38,400/-.

5. The Tribunal has held that petitioner No. 1 'is a young childless widow and thereforee it appears to be just and proper if a deduction at the rate of 20 per cent

should be made for lump sum payment and uncertainties of life.' It is difficult to understand the reasoning of the Tribunal. The counsel for the respondents has submitted that the widow being very young almost of 24 years, there was every likelihood that she would get married particularly because there was no child from this marriage. Considering difficulties in widow marriage and particularly for the social strata of people coming from the villages it is difficult to imagine that the widow would get re-married. On a mere surmise, thereforee, no amount should be deducted from compensation. As regards the deduction for lump sum payment and uncertainties of life, it is now well-settled that the real value of rupee had been considerably reduced because of the higher rate of inflation. I would not, thereforee, make any deductions on this account. The claims ants are further entitled to 6 per cent simple interest from March 1970 till the date of payment. The appeal is allowed.

6. The Insurance Company, respondent No. 3 shall draw up a cheque for the compensation and interest amount and deposit the same with the Registrar of this Court within 3 months.The counsel for the respondent states that the amount awarded by the Tribunal together with the cost and interest was deposited in this Court in January, 1976. The claims ants would be entitled to 6 per cent simple interest on the entire amount of Rs. 38,400/- from March, 1970 till deposit of the awarded amount in this Court. For the period subsequent to the date of the said deposit, the interest would be chargeable on the balance of the amount, i.e. the amount which has now been awarded as an additional amount. The Insurance Company would deposit the additional amount in this Court towards compensation and interest as directed above.

7. The claims ants would be entitled to receive the amount already deposited in this Court and the amount which the Insurance Company would now deposit under these orders.

8. The appeal is allowed. The cross-objections are dismissed.