

Santro Devi and anr. Vs. Partap Singh and ors.

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Court : Punjab and Haryana

Decided On : Aug-29-1984

Reported in : II(1984)ACC542

Judge : S.S. Sodhi, J.

Appellant : Santro Devi and anr.

Respondent : Partap Singh and ors.

Judgement :

S.S. Sodhi, J.

1. On June 19, 1977, at about 5 p.m., Naik Bharat Singh was standing on the road side near village Dappar on the Ambala-Chandigarh road when the truck HRE 2529 came on to the wrong side of the road and struck against him. Bharat Singh later died as a result of the injuries received by him in this accident.

2. It was the finding of the Tribunal that the accident here had been caused by the rash and negligent driving of the truck driver. A sum of Rs. 23,040/- was awarded as compensation to the claimants, they being the widow and minor daughter of Barat Singh deceased.

3. The claim in appeal is for enhancement of compensation.

4. The evidence on record would show that Bharat Singh deceased was only about 32 years of age at the time of his death. He was employed as a Naik in the army and according to certificate Exhibit A.W. 6/B, which was produced by A.W. 6 Havildar NMV Thampan, his total emoluments were over Rs. 500/- per month. As has been mentioned above, the claimants here are his widow Santro Devi and his minor daughter.

5. The compensation payable in such cases has to be assessed keeping in view of the principles laid down by the Full Bench in Lachhman Singh v. Gurmit Kaur 1979 PLR 1. Considering the circumstances and situation of the claimants and those of the deceased in the light thereof, 16 would clearly be the appropriate multiplier to be applied here. As regards the loss, Mr. L.M. Suri, counsel for the respondents, sought to pin down the claimants to the figure of Rs. 400/- per month, which was mentioned in the claim application as being the income of the deceased. What was mentioned in the claim application was that the income of the deceased was approximately Rs. 400/- per month. There is no challenge to the evidence brought on record by the claimants that the salary of the deceased was over Rs. 500/- per month. In this situation, It would not be in the interests of justice to treat the income of the

deceased to be Rs. 400/- per month and not Rs. 500/- per month in computing the loss suffered by the claimants. In this view of the matter, it would be fair and just to assess the loss to the claimants to be not less than Rs. 4000/- per annum. This would work out to Rs. 64,000/-. In their grounds of appeal, however, the claimants restricted their claim to Rs. 50,000/-. The amount to be awarded to them cannot, therefore, exceed this sum.

6. The compensation payable to the claimants is accordingly hereby enhanced to Rs. 50,000/-, which they shall be entitled to along with interest at the rate of 12 per cent per annum from the date of the application to the date of payment of the amount awarded. Out of the amount awarded, a sum of Rs. 20,000/- shall be paid to the minor daughter of the deceased and the balance to his widow. The amount payable to the minor claimant shall be paid to her in such manner as the Tribunal may deem to be in her best interest.

7. Mr. L.M. Suri, counsel for the respondent, sought to object to the payment of interest on the amount awarded on the ground that no such claim had been put forth by the claimants either in their claim application or in the grounds of appeal. Payment of interest in such cases is ordered to be paid to the claimants in the interest of justice to off set the loss caused to them by the delay in the amount awarded being paid to them. The fact that no-specific claim to this effect is made in the claim application or in the grounds of appeal, cannot therefore, be taken to deny or bar the award of interest on the amount awarded. This objection cannot, therefore, be sustained.

8. This appeal is accordingly accepted with costs. Counsel's fee Rs. 300/-.

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