

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.722 of 1994 (O&M)
Date of Decision:14.10.2015

Smt. Prem Wati Devi and another

....Appellants

Versus

Ravinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Argued by: Mr. I.P. Singh, Advocate for the appellants.

Mr. Inderjeet Sharma, Advocate for
Mr. R.C. Gupta, Advocate for respondent No.3.

Mr. Karminder Singh, Advocate for respondent No.5-
National Insurance Company Ltd

NAVITA SINGH, J.

1. The appellants had filed a claim petition before the Motor Accidents Claims Tribunal, Ludhiana (Tribunal for short) for the death of their son Sanjay who had sustained injuries in the motor vehicle accident on 18.11.1988. Earlier the injured had himself put forth a claim but after his death on 1.4.1990, the petition was amended and claim was converted into the one for compensation for death of Sanjay. The claim petition was, however, dismissed by the Tribunal.

2. Counsel for the appellants argued that it was wrongly held by the Tribunal that the legal representatives of the deceased could not be substituted in a petition filed earlier by the person who was injured and later on died. Earlier the Tribunal erred in holding that the death of Sanjay came as a result of kidney failure, which was unconnected with the injuries received in the accident. It was contended that from the discharge summary of the deceased, it was clear that he was admitted on 18.11.1988 i.e. the date of accident and he was referred to Nephrology for hypertension and haemodialysis was done on 28.11.1988 and 29.11.1988. It was argued that the kidney failure was a result of injuries received

in the accident and, therefore, it could not be said that death was not attributable to the accident.

3. Counsel for respondent No.5 vehemently argued that there was categorical medical opinion that the cause of death of Sanjay was renal failure. Dr. Mathew Santosh deposed before the Tribunal that the kidney failure was not the result of injuries received in the motor vehicle accident. He said that the failure could be a result of many factors. It was also elaborated that the deceased had no problem between 1.12.1988 and 28.2.1990.

4. So far as the discharge summary is concerned, the same did not anywhere mention that the patient underwent dialysis because there was damage to the kidneys on account of the result of injuries suffered in the accident. Furthermore, it is written in the document itself that the patient required haemodialysis support but he was being discharged against medical advice. This would mean that the patient got discharged from the hospital at his own risk and peril. Also the document made a mention of consulting the Nephrology Department on 22.11.1988 after the patient was examined on 20.11.1988. The Nephrologist was consulted for high blood pressure. The deceased was suffering from hypertension as would the medical record show which could result in kidney failure, as was stated by the medical expert. The death occurred almost a year and a half after the accident and, therefore, without specific medical opinion it could not be said that Sanjay died as a result of injuries received by him in the accident.

5. The Tribunal passed a well reasoned award.

6. The appeal is dismissed.

(NAVITA SINGH)
JUDGE

14.10.2015
Ishwar

Whether to be referred to reporter: Yes