

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

242

FAO-95-1992 (O&M)

Date of decision: 05.12.2023

National Insurance Company Ltd. and Another

....Appellants

Versus

Komal alias Krishna Rani (since deceased) through her LRs and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Deepak Suri, Advocate for the appellants

Mr. Yuvraj, Advocate for

Mr. Prince Goel, Advocate for LRs of deceased-respondent No.1

AMAN CHAUDHARY. J.

1. Challenge in the present appeal is to the Award dated 23.03.1991 passed by the learned Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal') vide which a sum of Rs.4,80,000/-alongwith interest @ 12% per annum, had been awarded to the claimant-respondents and the appellants are held liable to pay the said amount.

2. This is a reconstructed case, as the original file was burnt in the fire that broke out in the concerned branch in the year 2011. Since the case is pending for the last more than 31 years, the counsel for the parties have no objection, if the same is decided on basis of the available record.

3. Learned counsel contends that the driver of the vehicle in which the deceased was travelling, was negligent as he, while driving the car, struck a tree but the Tribunal has erred in not framing the issue in that regard. It is further submitted that excessive compensation was granted to the claimants by applying a higher

multiplier.

4. *Per contra*, learned counsel for LR's of respondent No.1 vehemently opposed and submitted that the Tribunal had rightly awarded the compensation in the appeal filed by the respondents after thoroughly considering the evidence on record.

5. Heard learned counsel for the parties.

6. The unfortunate accident took place on 04.09.1988, wherein Panna Lal and Gurbant Singh died, while Kamaljit Singh and Tarlochan Singh received injuries. Regarding the issue of negligence, the Tribunal has recorded categorical findings, which read thus:

“15 I take up the question of compensation I would like to point out that no specific issue was framed by the Motor Accident Claims Tribunal on the question of negligence in driving of car bearing registration No. PCF-9091, by Panna Lal. Nevertheless the parties were fully aware about the controversy involved in all the claim applications which and with that view they have adduced evidence to a reference at this stage is considered necessary. Kamaljit Singh, one of the claimants (AW7) an occupant of the car with Gurbant Singh and Tirlochan Singh, has testified that on the day of occurrence they left Ludhiana in Maruti Car bearing registration No. PCF-9091 with Panna Lal on its wheel and at about 6 P.M. they reached near village Uncha Jatana when a matador was seen coming from an apposite side which was over taking some other vehicle and in order to avert the accident Panna Lal, diverted that car to the extreme left hand side when the same went out of his control despite of the application of the brakes and rammed against a tree in which he and Tirlochan Singh sustained injuries while Gurbant Singh succumbed to the injuries. In the same strain is the statement of Tirlochan Singh, another victim of the accident (AWB). The respondent did not adduce any rebuttal evidence and not have examined Panna Lal, who also died in dent. From could the accident the statements of Kamaljit Singh (AW&) Tirlochan Singh (AWB), it can be easily made Panna Lal was proceeding at a high speed or out and that otherwise there could be no reason for his failure in stopping the car on seeing a matador coming from the opposite side that was overtaking another vehicle. The fact that the car went out of his control and rammed against a tree on the very extreme left hand side of the road by itself explains that the accident was the result of the rash and negligent driving of the car by Panna Lal and I hold accordingly.”

7. The Tribunal has meticulously examined the evidence and came to a definite opinion of negligence on the part of the driver of the offending vehicle. There is nothing to construe that any miscarriage of justice has occasioned.
8. The argument of the counsel for the appellant with regard to grant of excessive compensation does not hold much water. Admittedly, Gurbant Singh, died in the accident in question. His legal heirs, who were the widow and mother, had filed separate claim petitions. The Tribunal has rightly assessed the annual dependency to the tune of Rs.2500/- and by applying the multiplier of 16 a sum of Rs.4,80,000/-, was awarded to the claimants, to be payable in equal share.
9. As a result, the present appeal being meritless, is hereby dismissed.

05.12.2023

M.Kamra

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No