

Punjab-Haryana High Court

Mohinder Kaur vs Rani And Ors. on 17 November, 1983

Equivalent citations: 1 (1984) ACC 406

Author: S Sodhi

Bench: S Sodhi

JUDGMENT S.S. Sodhi, J.

1. Mewa Ram, deceased was killed in an accident when the car in which he was travelling hit against a truck parked on the road side. The Tribunal, holding that the accident here had been caused by the rash and negligent driving of the car driver, awarded a sum of Rs. 60,000/- as compensation to the claimants, they being the parents, widow and children of deceased. Included in the amount awarded was a sum of Rs. 4000/- awarded to the parents and Rs. 8000/- to the widow and children of the deceased for loss of love and affection on account of the death of the deceased. The challenge in the appeal filed by the owner of the car, involved in the accident, was to this post of the award of compensation to the claimants.

2. It is now settled by the Full Bench of this Court in Lachhman Singh v. Gurmit Kaur 1979 P.L.R. 1, that no amount can be awarded for loss of love and affection and there is consequently no escape from the conclusion that the Tribunal erred in awarding this sum of Rs. 12,000/- as compensation to the claimants.

3. Mr. J.S. Chahal, counsel for the Insurance Company, in the other appeal, sought to raise the contention that the liability of the Insurance Company for the amount awarded as compensation in this case was limited to Rs. 10,000/-. He adverted in this behalf to the provisions of Section 95 of the Motor Vehicles Act.

4. In dealing with this contention, it must be noted that no plea was raised by the Insurance Company before the Tribunal with regard to there being any limit to its liability. No such point was at any time urged even before the Tribunal and now even the grounds of appeal this point has not been specifically taken. In these circumstances it would clearly be contrary to the interests of justice to allow this point to be raised for the first time in appeal.

5. In the result the appeals filed by the Insurance Company as also the car owner, are accepted to the extent that the amount awarded is reduced to Rs. 48,000/-. As a consequence out of the amount awarded, a sum of Rs. 2500/- each shall be paid to the parents of the deceased, Rs. 3000/- each to his minor children and the balance to his widow. There will be no order as to costs.