

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2008
(Arising out of SLP(C)3571 OF 2007)

Pepsu Road Transport Corpn.
Patiala, through its General Manager

...Appellants

Versus

Kulwant Kaur & Ors.

...Respondents

JUDGMENT

Dr. ARIJIT PASAYAT, J.

1. Leave granted.
2. Challenge in this appeal is to the judgment of the Division Bench of the Punjab and Haryana High Court allowing the appeal filed by the respondent No.1 Kulwant Kaur. An application for review of the judgment was also dismissed. The impugned judgment was in a Letters Patent Appeal

which was filed against the judgment of Learned single Judge affirming the Judgment of Motor Accidents Claims Tribunal (in short the MACT). The MACT has dismissed the claim petition on the ground that there was no evidence to show any loss of dependency. The claimant's lawyer in the appeal before the High Court took the stand that the claim was restricted to Rs.50,000/- as no fault liability under Section 140 of the Motor Vehicles Act, 1988 (in short the 'Act').

3. The appeal filed by the claimant was allowed. Review application filed on the ground that Rs.50,000/- was not payable, was rejected.

4. Learned counsel for the appellant-Corporation submitted that the view of the High Court is clearly unsustainable. The High Court could not have directed the payment of Rs.50,000/- as "no fault liability". The High Court appears to have taken the view that the provision of Section 140 of the Act operate with retrospective effect.

5. There is no appearance on behalf of the respondent in spite of service of notice.

6. Background facts in a nutshell are as follows:

An incident took place on 15.10.1982. The Act came into operation with effect from 14.10.1988 and the relevant provision was amended on 14.11.1994. The question is the date from which the Section 140 of the Act operates and whether it operates with retrospective effect.

The High Court was of the view that that it has retrospective operation.

The amount payable under old Act was Rs.15,000/-. Subsequently, it was raised to Rs.50,000/-. By amendment Act no.47 of 1982 in the old Act operative with effect from 1.10.1982, Section 92-A was introduced, making provision for “no faulty liability”. The Act was enacted on 14.10.1988, but became operative with effective from 1.7.1989. In the Act, the amount payable was Rs.25,000/- as no fault liability. The amount was raised to Rs.50,000/- by amendment operative with effect from 14.11.1994.

7. In R.L. Gupta v. Jupiter General Insurance Co. [1990(1) SCC 356] it was held the quantum of liability is provided by the Statute prospectively. At the relevant point of time the quantum of Rs.15,000/- appears to have been paid. The High Court’s view about retrospective operation is contrary

to what has been stated in R.L. Gupta's case (supra). In any event, Act can have no application in respect of a claim petition filed on 30.11.1982 and decided by MACT on 16.7.1984.

8. Above being the position the appeal deserves to be allowed, which we direct. The amount shall be Rs.15,000/- instead of Rs.50,000/- as directed by the Tribunal.

9. The appeal is allowed to the aforesaid extent.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(Dr. MUKUNDAKAM SHARMA)

New Delhi,
February 23, 2008

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