

Rattan Kaur and another v. Ranjit Singh Alias Baljit Singh  
and others (S. S. Sodhi, J.)

hereby set aside and the matter is remitted to that Court to restore the appeal to its original number and to decide the same on merits in accordance with law. The parties through their counsel are directed to appear before the Additional District Judge, Ambala on September 14, 1982. There will be no order as to costs.

N. K. S.

Before S. S. Sodhi, J.

RATTAN KAUR AND ANOTHER,—Appellants.

*versus*

RANJIT SINGH ALIAS BALJIT SINGH AND OTHERS,—  
Respondents.

First Appeal from order No. 286 of 1975.

August 11, 1982.

*Motor Vehicles Act (IV of 1939)—Section 110-A—Indian Penal Code (XLV of 1860)—Section 304-A—Motor vehicle involved in an accident—Fine imposed by a criminal Court as sentence upon the driver of the vehicle for rash and negligent driving—Fine directed to be paid to the heirs of the deceased—Claim for compensation by the heirs under section 110-A—Fine already received by the heirs—Whether could be set off against the compensation awarded by the Tribunal.*

*Held*, that when a criminal Court orders that out of fine recovered, a sum be paid to the injured or to the heirs of the deceased as the case may be, the amount is ordered to be paid as compensation which is, indeed, the only rationale for such payment. It is, thus, a payment which is made directly and as a consequence of the injuries suffered by the injured or the loss suffered by the heirs of the deceased arising from the death of the deceased. The principle upon which the amount received by the claimants on account of insurance moneys which become payable to them on the death of the deceased rests upon premises wholly inapplicable to the payment of a sum of money as compensation out of the fine imposed as sentence upon conviction by the criminal court. These two payments, thus, bear no kinship or resemblance to each other and cannot, therefore, be equated. The sums which are ordered by the criminal court to be paid to the injured or to the heirs of the deceased out of the amount recovered from the accused as fine are, thus received by them as compensation for such injury or death and have accordingly to be set off against any compensation that the claimants may be held entitled to.

(Paras 7 and 8).

*First Appeal from the order of the Court of Shri Joginder Singh Sidhu, Motor Vehicles Accidents Claims Tribunal Bhatinda (Additional District Judge Bhatinda), dated 25th August, 1976 awarding Rs. 8,000 by way of compensation with costs to Mst. Rattan Kaur and fixing pleader's fee Rs. 200.*

G. S. Grewal, Advocate, for the Appellant.

L. M. Suri, Advocate, for Respondents 1 and 2.

#### JUDGMENT

S. S. Sodhi, J.

(1) The short question which arises for determination in this appeal as also in the cross appeal F.A.O. No. 303/1975 (Ranjit Singh etc. v. Rattan Kaur and another) is whether the amount ordered to be paid as compensation out of the fine imposed by the criminal court as sentence upon the driver of the motor vehicle upon his conviction for rash and negligent driving, can be set off against the amount awarded as compensation by the Motor Accident Claims Tribunal to the injured-claimant or the dependants of the deceased who was killed as a result of the accident, as the case may be.

(2) The facts relevant to this matter are that on 13th February, 1973 Harbhajan Singh, a young boy of 13 years of age, while returning to his village Mehraj on his bicycle from his school in Rampura Phul was run over and killed by tractor No. PUL 110. Harbhajan Singh deceased was on the canal bank when this tractor came there from the opposite direction. Seeing the tractor approaching he got down from his cycle and stepped near a tree on the left hand side and it was there that the tractor came and hit into him. He died at the spot as a result of the injuries received by him in this accident.

(3) The claimants in this case are the parents of Harbhajan Singh deceased. The claim put forth by them was for compensation to the tune of Rs. 50,000 on account of the death of the deceased.

(4) The Tribunal came to the finding that the accident took place due to the negligence of the driver of the tractor and held the claimants entitled to Rs. 16,000 as compensation for the death of the deceased. From this amount, a sum of Rs. 8,000 was deducted being

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the amount received by the claimant Rattan Kaur out of the fine imposed upon the driver of the tractor by the criminal court as the sentence imposed upon him for the offence under section 304-A of the Indian Penal Code arising from this accident.

(5) The finding of the Tribunal regarding the negligence of the driver of the tractor affords no ground for challenge in appeal. The negligence of the driver of the tractor in causing this accident had not even been disputed by the respondents before the Tribunal. Besides this, there is also the evidence of the two eye-witnesses AW-2 Ganga Singh and AW-3 Nazar Singh, which clearly establishes the fact that on seeing the tractor, the deceased had got down from the cycle and was standing on his left side of the canal bank when the tractor came and hit into him and killed him. This finding must accordingly be upheld and affirmed.

(6) Turning to the amount awarded as compensation there is clearly no warrant for any reduction therein as was prayed for by the counsel for the tractor owner. The deceased in this case was 13 years of age at the time of his death and according to the evidence on record he was a student of sixth class. He was a good student and was in sound health. The tribunal computed the loss to the mother at the rate of Rs. 60 per month on the basis that the deceased could at any rate have earned wages of an agricultural worker which he took at the rate of Rs. 180 per month. If anything, this is an estimate on the low side. On this basis, having regard to the age of the deceased and of his mother, there is no scope for interference.

(7) Counsel for the claimants, however, sought to contend that the Tribunal was in error in deducting from the amount awarded namely Rs. 16,000 a sum of Rs. 8,000 which had been paid to the claimant Rattan Kaur out of the fine imposed upon the driver of the tractor by the criminal court while convicting and sentencing him for the offence committed by him arising out of this accident, the argument being that like insurance moneys this was not a benefit which accrued to the claimants on account of the death of the deceased which could be off-set against any amount that the claimants may be held entitled to as compensation on account of his death. It was contended that this amount of Rs. 8,000 had been paid to Rattan Kaur on account of the conviction of the driver of the tractor and not an account of the death of the deceased and no deduction on this account was, thus, warranted. There is clearly no

warrant for accepting this contention. When the criminal court orders that out of the fine recovered, a sum be paid to the injured or to the heirs of the deceased as the case may be, the amount is ordered to be paid as compensation which is, indeed, the only rationale for such payment. It is, thus, a payment which is made directly on account of and as a consequence of the injuries suffered by the injured or the loss suffered by the heirs of the deceased arising from the death of the deceased.

(8) The principle upon which the amount received by the claimants on account of insurance moneys which become payable to them on the death of the deceased rests upon premises wholly inapplicable to the payment of a sum of money as compensation out of the fine imposed as sentence upon conviction by the criminal court. These two payments, thus, bear no kinship or resemblance to each other and cannot, therefore, be equated. The principle underlying disregarding insurance moneys in this behalf being as stated by Lord Reid in his report in *Parry v. Cleaver* (1). It was observed therein:

“As regards moneys coming to the plaintiff under a contract of insurance, I think that the real and substantial reason for disregarding them is that the plaintiff has bought them and that it would be unjust and unreasonable to hold that the money which he prudently spent on premiums and the benefit from it should ensure to the benefit of the tortfeasor.”

The sums which are ordered by the criminal court to be paid to the injured or to the heirs of the deceased out of the amount recovered from the accused as fine are, thus received by them as compensation for such injuries or death and have accordingly to be set off against any compensation that the claimants may be held entitled to. No exception can, thus, be taken to the deduction of Rs. 3,000 from the amount of Rs. 16,000 awarded to the claimants in this case.

(9) In the result, both the appeals are hereby dismissed. There will, however, be no order as to costs.

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(1) (1969) 1 All. E.R. 555.