

Mangal Dass (deceased) through his legal representatives v. S. S. Sandhu and others (G. R. Majithia, J.)

(19) For the reasons recorded above, all the writ petitions are allowed with no order as to costs with the direction to the respondent Board to refix the price of the flats of the petitioners and the instalments under the guidelines issued by the HUDCO and the observations made above.

S.C.K.

Before : G. R. Majithia, J.

MANGAL DASS (DECEASED) THROUGH HIS LEGAL REPRESENTATIVES,—Appellants,

versus

S. S. SANDHU AND OTHERS,—Respondents.

First Appeal from Order No. 1011 of 1988.

31st August, 1989.

Motor Vehicles Act, 1939 (Act IV of 1939)—S. 110-A—Application under—Death of injured claimant during the pendency of application—Legal heirs of the deceased—Right to be substituted.

Held, that the maxim actio personalis moritur cum persona cannot be invoked, if the accident instead of resulting in an injury resulted in the death of a person. The legal representatives can claim compensation for loss to the estate of the deceased. If an action is initiated by an injured person for compensation in respect of items which involve loss to her property why should it not survive to the legal representatives when he dies during the pendency of an action. The applicants are allowed to be brought on record as legal representatives of the deceased claimant.

(Para 3 & 5)

First Appeal from the order of the court of Shri J. S. Sekhon, Motor Accident Claims Tribunal, Chandigarh dated 9th October, 1987 dismissing the application and original claim of Mangal Dass with no order as to costs.

CLAIM : Rs. 2,00,000 was claimed.

CLAIM IN APPEAL : For reversal of the order of the labour court.

Thakur Kartar Singh, Advocate, for the Appellants.

Mahraj Baksh Singh, Advocate, for Respondent No. 3.

JUDGMENT

G. R. Majithia, J.

(1) This appeal is directed against the order of the Motor Accident Claims Tribunal, whereby he dismissed the claim application.

(2) The Facts :—

Mangal Dass deceased filed an application under Section 110-A of the Motor Vehicles Act (for short the Act) against the respondents. He alleged that he received injuries due to rash and negligent driving of the vehicle by respondent No. 1. During the pendency of the application, the claimant died on February 10, 1987 presumably as a result of the injuries suffered in the accident. The widow and the children of the deceased moved an application for substituting them as applicant-claimants in place of the deceased. The application was contested and the Tribunal dismissed the application for substitution filed by the legal heirs of the deceased and also the claim application.

(3) It is not clear on what grounds the Tribunal declined the application filed by the legal heirs of the deceased for substituting them as claimants in the claim application. It is also not clear on what basis he held that the right to sue does not survive. A person suing for compensation in respect of the injuries sustained by him under Section 110-A (1) of the Act can claim compensation for physical injury, mental sufferings including any expenses incurred for treatment. He can also claim damages towards loss to property consequent upon the accident. If the compensation is awardable in respect of some of the items resulting in loss to the property of the injured person, there is no bar under Section 110-A (1) of the Act which prohibits a claim for compensation to be made in that behalf. The maxim *actio personalis moritur cum persona* cannot be invoked, if the accident instead of resulting in an injury resulted in the death of a person. The legal representatives can claim compensation for loss to the estate of the deceased. If an action is initiated by an injured person for compensation in respect of items which involve loss to his property why should it not survive to the legal representatives when he dies during the pendency of an action.

The Punjab State Board for the Prevention and Control of Water Pollution, 11-A, The Mall, Patiala v. M/s. Raja Ram Corn Products (Punjab) Pvt. Ltd., Mohali and others (H. S. Rai, J.)

(4) Reference can usefully be made to a Bench decision rendered in *Joti Ram and others v. Chaman Lal and others* (1), wherein it was held thus :—

“The scope of the provisions of section 306, Indian Succession Act and the maxim *actio personalis moritur cum persona*, therefore, appears to be well-settled and the claim of damages on account of loss to the estate of the injured would not abate on his death.”

(5) For the aforesaid reasons, the appeal is allowed. The order of the Motor Accident Claims Tribunal is set aside. The application moved by the legal representatives of the deceased for bringing them on record is allowed. They are allowed to be brought on record as legal representatives of the deceased claimant. The claim petition will be decided in the light of the aforementioned observations. The order under challenge is set aside. The claim petition will be revived and restored against its original number and will be disposed of on merits keeping in view the observations made above within three months from the date of the receipt of the order. Cost in appeal will abide by the event.

P.C.G.

Before : Harbans Singh Rai, J.

THE PUNJAB STATE BOARD FOR THE PREVENTION &
CONTROL OF WATER POLLUTION, 11-A, THE MALL,
PATIALA,—Petitioner.

versus

M/S. RAJA RAM CORN PRODUCTS (PUNJAB) PVT. LTD.,
MOHALI AND OTHERS,—Respondents.

Criminal Revision No. 851 of 1985:

4th September, 1989.

Water (Prevention and Control of Pollution) Act, 1974—Ss. 2(j), 21, 25, 26, 44 & 47—Code of Criminal Procedure (II of 1974)—S. 401—Pollution control—Prosecution—Discharge of trade effluent

(1) F.A.O. No. 536 of 1979 decided on 25th September, 1981.