



FAO-3360-2006 (O&M)

-1-

208

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**FAO-3360-2006 (O&M)
Date of Decision :-28.02.2025**

Saroj Rani and Others

....Appellants

VERSUS

Satnam Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. N.K.Manchanda, Advocate for the appellants.

Mr. S.P.Garg, Advocate for the respondent-Insurance Co.

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SUDEEPTI SHARMA, J.

1. The present appeal has been preferred by the appellants-claimants against award dated 10.03.2006 passed in claim petition filed under Section 166 of the Motor Vehicles Act, 1988, whereby the learned Motor Accident Claims Tribunal, Panipat (for short, 'the Tribunal'), dismissed the claim petition of the claimants.

FACTS NOT IN DISPUTE

2. Brief facts of the case are that 10.11.1998 at about 7.30 PM Pawan Kumar son of Ram Parkash, was going on scooter near Patrol Pump in the area of village Mudki. In the meanwhile, a bus No.PB-11-H-1851 belonging to respondents No.2 and 3 came from the side of Amritsar which was being driven by Satnam Singh respondent No.1 in a rash and negligent manner. On reaching near Pawan Kumar he struck the same against him, as a result of which Pawan Kumar sustained multiple injuries. He was immediately shifted to Medical College & Hospital, Faridkot, where he succumbed to the injuries.

**FAO-3360-2006 (O&M)****-2-**

3. Upon notice, all the respondents appeared and filed their respective written reply denying the impugned accident having been caused due to rash and negligent driving of offending bus by respondent No.1. According to their version, on that day offending bus started from Mudki Bus stand for Faridkot at about 19.30 hours alongwith passengers. About 1/2 kilometer from that place there is a wine Shop situated on the left side of the road. Respondent No.1 saw scooter coming from that Wine Shop at high speed and on seeing it he stopped the bus by applying brakes and bus stopped there and then and bus was still in low gears. The Scooterist/deceased, being drunk, lost control over the Scooter and dashed the same into the stationary bus on left side behind the front door, as a result he fell down. According further to them, driver of the Scooter, who was heavily drunk, was picked up and was got admitted in the hospital by respondent No.1. The impugned accident was alleged to have been caused due to rash and negligent driving of Scooter by the deceased himself.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

1. Whether death of Pawan Kumar took place on 10.11.1998 at 7.30 PM in the area of village Mudki in road accident cause due to rash and negligent driving of Bus No.PB-11-H-1851 by respondent No.1, as alleged? If so its effect? OPP.

2. Whether Saroj Rani and Pariya Gupta were dependents upon deceased as alleged? If so, its effect? OPP



3. Whether Ram Parkash etc. claimants of consolidated claim petition were also dependents on deceased? If so, its effect? OP Counter claimants.
4. If issue No.2 and 3 are proved, then to what amount of compensation and from whom claimants and counter claimants are entitled? OPA & OP CC.
5. Whether this Court has no jurisdiction as alleged? OPR-2 and 3.
6. Whether claim petition is bad for mis-joinder & non-joinder of necessary parties? OPR 2 and 3.
7. Relief.

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim petition. Hence the claimants/appellants filed the present appeal for grant of compensation.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

6. Learned counsel for the claimants-appellants contends that claim petition is dismissed on the ground that the deceased Pawan Kumar was under the influence of liquor and it was due to rash and negligent driving of the deceased himself that the accident took place. He, therefore, prays that the present appeal be allowed.

7. Per contra, learned counsel for the respondent-Insurance Company, argues on the lines of the award and contends that the claim petition was rightly dismissed by the learned Tribunal. He therefore, prays for dismissal of the appeal.

8. I have heard learned counsel for the parties and perused the whole record of this case.



9. The relevant portion of the award is reproduced as under:-

“11. It was contended on behalf of the claimants that deceased Pawan Kumar had died in the motor vehicular accident which was caused due to rash and negligent driving of of fending Bus bearing No.P11-H/1851 by Satnam Singh respondent No.1. According to them, a case FIR No. 117 dated 11, 11, 1998 was also registered against him under sections 304-A/279 IPC wherein also the impugned accident was attributed to rash and negligent driving of offending Bus by respondent No.1.

12. To lend colour to their submissions, they have placed reliance on the testimonies made by Chiman Lal AW2 and Kashmiri Lal AW2 besides the testimonies of Saroj Rani AWI and Ram Parkash AW7. The claimants Saroj Rani AWI as well as Ram Parkash AW7 in their testimonies made before the Court has also stated that the impugned accident was caused due to rash and negligent driving of offending bus by respondent Chiman Lal AW2 Kashmiri Lal AW6 are stated to be the eye witnesses of the accident, Chiman Lal AW2 was examined by claimant Saroj Rani, who by way of his affidavit Ex. AW2/A, has stated that on that day he had seen the offending bus being driven by Satnam Singh in rash and negligent manner. The said bus was coming from Amritsar and was going to Faridkot. When the said bus reached near petrol pump in the area of village Mudki then the same crushed, deceased Pawan Kumar due to rash and negligent driving of the same by Satnam Singh, as a result he sustained multiple injuries and was



removed to Shri Guru Gobind Singh Medical College & Hospital, Faridkot where he succumbed to his injuries. To the same effect is the testimony of Kashmiri Lal AW6, who by way of his affidavit Ex. AW6/A has stated that on that day at about 7.30 p.m. deceased was standing with his Scooter in front of a Dhaba, a bus came from Mudki side and was going to Faridkot. The said bus was driven by Satnam Singh respondent No.1 in a rash and negligent manner, he brought the bus to the wrong side and struck the same against Scooter of Pawan Kumar, as a result he fell down and received injuries. According to the learned counsel for the claimants, statements of both the eye witnesses coupled with that of the claimant leaves no manner of doubt that the impugned accident was caused due to rash and negligent driving of offending bus by respondent No.1, as a result of which Pawan Kumar had died.

13. On the other hand, learned counsel appearing for respondent No. 1. and other respondents, contended that simply on the basis of oral assertions and oral testimonies of the witnesses examined by the claimants it cannot be held that the impugned accident was caused due to rash and negligent driving of offending bus by respondent No.1 when respondent No. 1 already stood acquitted of the charge of rash and negligent driving framed against him in Criminal case. My attention was drawn to a judgment dated 3.8.2004, copy Ex. RX, of the Court of Shri Gurdev Singh, the then learned Addl. Sessions Judge, Ferozepur by virtue of which he acquitted respondent No.1 of



the offence under Section 304-A of the IPC holding the impugned accident having been caused on account of negligence of the deceased himself. The learned counsel appearing for the respondents argued that at the time of accident the deceased was drunk and was totally under the influence of alcohol which is quite evident from the report of Chemical Examiner, copy Mark 'A'. The said report is alleged to be fully admissible as correctness of the same is not disputed by the either party, reference to which can very well be found in the judgment Ex. RX.

14. In reply to the arguments, it was contended on behalf of the claimants that Civil Court cannot rely on the findings of the Criminal Court for arriving at conclusion on the question as to whether the impugned accident was caused due to rash and negligence of respondent No. 1 or of the deceased. To support his contention he has placed reliance on the observations made by the Hon'ble High Court of Madras in Mathuswami Vs. Siddan and others, 2005(3) Recent Civil Reports, 9 as well as by the Andhra Pradesh High Court in A. Narayan Rao Vs. Shanta Bai & Ors 2004(2) Civil Court Cases, 409.

15. There is no dispute about the correctness of law as laid down by the Hon'ble High Courts of Madras and Andhra Pradesh in the ruling cited at bar, it is well settled law that the Civil Court would not be bound by the order of the Criminal Court on such a question in such proceedings. The Civil Court is required to come to its own independent conclusion on the basis of evidence recorded by it in the



*proceedings. It has also been held in **Pedda Venkatapathi Vs Ganegunta Balappa, 65 MLJ, 146** that the Civil Court shall undertake independent enquiry and not take into consideration the grounds of acquittal in criminal Court as was held in **Negendra Kumar Vs Etwari Sahu, AIR 1958 pat. 229** and **Satdeo Prasad Vs. Ram Narayan, AIR 1969 Pat., 102** that the findings by the criminal case is not conclusive proof of the malicious prosecution and malicious intention is to be proved by the plaintiff.*

16. In the light of the settled law on the point we shall consider evidence produced by the claimants on the point. None of the claimant was eye witness of the accident. The FIR in the case was lodged at the instance of Vishav Vishal alias Sonu, who was son of the deceased, Pawan Kumar. In his very first information report he has stated that he was informed about the death of his father in the motor vehicular accident. He has named Kashmiri Lal AW6 as eye witness of the accident. During the course of criminal trial said Kashmiri Lal AW6 was examined as PW6. The claimant, Saroj Rani in the first claim petition has introduced Chiman Lal AW2 as alleged eye witness of the accident. As aforesaid, in his statement made by way of his affidavit Ex. AW2/A he has stated that when the bus reached near Petrol Pump, Mudki it crushed the deceased Pawan Kumar due to rash and negligent driving of the same by Satnam Singh respondent No.1. The other eye witness Kashmiri Lal AW6 had stated that respondent No. 1. while driving the offending bus in rash and negligent manner struck



the same against the Scooter of the deceased as a result of which he fell down and sustained injuries, Chiman Lal AW2 is altogether silent about any Scooter with the deceased. Thus, doubt is created about correctness of the testimony of Chiman Lal AW2. He appears to have only been introduced by claimants of first claim petition to get compensation by any means Post mortem of the deceased was conducted during which viscera of the deceased was admitted to have been sent to the Chemical Examiner. Photo copy of the report of Chemical Examiner is on the record as mark 'A'. Though the report was seen only marked, but the same is admitted in evidence as correctness of the contents of the same were not disputed by the either party and reference of which can also be found in the judgment dated 3.8.2004 of the Court of Shri Gurdev Singh, the then learned Addl. Sessions Judge, Ferozepur, EX.RX. Therefore, the court can take judicial notice of the contents of said report. The said report shows that alcohol was detected in stomach, portion of small intestine, large intestine, liver, spleen, kidney as well as in the blood. Blood alcohol concentration was estimated 166.75 mgs, per 100 mls. of blood. It shows that the deceased had taken alcohol which had already gone into his blood before his accident. Thus he was totally under the influence of alcohol at the time when the impugned accident took place. The Court cannot ignore this fact. On the face of it, simply on the basis of single oral statement of Kashmiri Lal PW6 the impugned accident cannot be held to have been caused due to rash and negligent driving of bus by respondent No.1. The fact that the



deceased had taken alcohol which had already gone into the blood before the accident, shows that at the time of accident he was under the influence of alcohol and the impugned accident was taken place due to his negligence. As such, it cannot be held that the impugned accident was caused due to rash and negligent driving of bus No. PB-11-E-1851 by respondent No.1, the effect of which would be that no award of compensation can be passed in favour of the claimants. This issue is decided in favour of the respondents and against the claimants.

ANALYSIS OF THE RECORD

10. A perusal of the impugned award reveals that the learned Tribunal has rightly adjudicated the matter by holding that the accident was not caused due to the negligent driving of the respondent-driver but rather due to the negligence of deceased-Pawan Kumar himself, who was under the influence of alcohol. The claimants failed to discharge the burden of proving negligence on the part of respondent No.1-Satnam Singh, making their claim unsustainable in law.

11. A careful examination of the evidence on record reveals material contradictions in the testimonies of the alleged eye-witnesses, AW-2 Chiman Lal and AW-6 Kashmiri Lal. Chiman Lal (AW-2) in his affidavit Ex. AW2/A, stated that the deceased was crushed by the offending bus near a petrol pump in the area of Mudki due to the rash and negligent driving of respondent No.1-Satnam Singh. However, Kashmiri Lal (AW-6), in his affidavit Ex. AW6/A, deposed that the deceased was standing with his scooter when the offending bus struck him, causing fatal injuries. The absence of any mention of the scooter in Chiman Lal's (AW-2)



testimony raises serious doubts about the credibility of these witnesses. Such material inconsistencies in the sequence of events cast significant doubt on the reliability of the claimants' version and weaken their case considerably.

12. Furthermore, learned Additional Sessions Judge, Ferozepur, acquitted respondent No.1 of the charge under Section 304-A IPC vide the judgment dated 3.8.2004, Ex. RX. It was categorically held therein that the accident occurred due to the negligence of the deceased-Pawan Kumar, himself. While it is a settled legal principle of law that findings in a criminal trial do not bind civil proceedings, courts in civil cases must independently assess the evidence. However, where the criminal court has examined the same set of facts and found no culpability on the part of the respondent, such a finding cannot be ignored, especially when the claimants fail to bring forth cogent and reliable evidence to establish negligence. The learned Tribunal, therefore, rightly took note of the findings in the criminal case while independently evaluating the evidence before it.

13. Moreover, the Chemical Examiner's report, Mark 'A', assumes significant evidentiary value in the present case. Though the report was only marked and not formally exhibited, neither party raised any objection to the correctness of its contents and its authenticity remained undisputed. Courts are empowered to take judicial notice of such evidence when its veracity is not challenged. The report clearly establishes the presence of alcohol in the stomach, small intestine, large intestine, liver, spleen, kidney, and blood of the deceased, with a blood alcohol concentration of 166.75 mg per 100 ml. This conclusively indicates that the deceased was heavily intoxicated at the time of the accident.

Such a high level of alcohol in the bloodstream suggests impaired judgment,

**FAO-3360-2006 (O&M)****-11-**

reduced reflexes, and loss of control, making it highly probable that the accident occurred due to the deceased's own negligence rather than any fault of the respondent-driver.

14. In view of the glaring contradictions in the testimonies of the alleged eyewitnesses, the findings of the criminal court, and the unchallenged chemical report proving intoxication of the deceased, this court finds no infirmity in the award rendered by the learned Tribunal. The claimants have miserably failed to establish negligence on the part of the respondent-driver, and accordingly, the award is upheld.

15. Consequently, the present appeal is dismissed being devoid of any merits.

16. Pending applications, if any, also stand disposed of.

February 28, 2025
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(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No