

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP no.10767 of 1995 O&M)
Date of Decision : 14.01.2015

Mukhtiar Singh Grewal

....Petitioners

Versus

The State of Punjab and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

- 1)Whether reporters of local newspapers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

Present : Mr.Gurpreet Singh, Advocate for the petitioner

Mr. Harkesh Manuja, Addl. AG, Punjab

MAHESH GROVER, J.

The petitioner impugns the order dated 24.3.1995 vide which recovery of Rs.63,000/- and some odd has been fastened upon him. The petitioner was working as a Junior Engineer when the vehicle which was under his control, assigned to him to carry out his official functions met with an accident causing the death of one person. A case was registered and proceedings under the Motor Accident Claims Tribunal were initiated which led to an award of Rs.1,66,000/- and some odd in favour of the claimants. The liability was fastened upon the State Government. It is pursuant to this that the impugned order was passed apportioning the liability of causing the loss to the Government between the petitioner and the person responsible for driving the vehicle negligently.

Learned counsel for the petitioner contends that no inquiry was held before the impugned order was passed and merely because the Tribunal

has determined the liability against the State Government would not be a cause to fasten the liability upon him. He thus contends that serious prejudice has been caused to his rights as an issue has been determined without even affording an opportunity to him to put forward his version.

The respondents on the other hand justify the impugned order and further contend that preliminary inquiry was held where the statement of the driver, cleaner and the petitioner were recorded. The statements have been placed on record as Annexures R-2 to R-4.

If Annexure R-4 is to be perused in conjunction with Annexure R-2 then the plea of the petitioner evidently would fall. The petitioner has stated in his statement that he had given the vehicle to Sh. Makhan Ram, driver who was sent to the site after an entry in this regard was made in the log book. The petitioner pleaded ignorance about the handing over the vehicle to Makhan Ram, driver who was the person responsible for causing the accident by driving the vehicle unauthorisedly and negligently.

Annexure R-2 would indicate that Makhan Ram was on leave in connection with a bereavement in the family and the fateful day was a gazetted holiday. He also stated that the log book was with the petitioner. The cleaner Sh. Lachman Dass admitted that he was driving the vehicle. He further stated that Makhan Ram, driver had come on the plant and returned. He also admitted that the vehicle had been handed over to him for driving by the petitioner.

It is prima facie this material which has been used against the petitioner as also the award by the Motor Accident Claims Tribunal.

In the considered view of this Court, the findings of the Motor Accident Claims Tribunal ipso facto would not lead to establishing the fault

of the petitioner and in case the statements which have been used against the petitioner are to be seen there would be a variance in them, particularly, when the statement of the driver and the cleaner are considered. The driver Makhan Ram has stated that he was on leave in connection with the bereavement in the family whereas the cleaner stated that he had come to the plant on the said date. In any eventuality it would be more appropriate if the respondents hold an inquiry into the issue by giving an opportunity to the petitioner to confront the driver and the cleaner as also to confront other witnesses and material which the respondents intended to use against the petitioner. Since concededly no inquiry was held, impugned order has resulted in serious prejudice to the cause of the petitioner as principles of natural justice have been flouted.

The impugned order is therefore set aside but with a liberty to the respondents to pass a fresh order in accordance with law.

Disposed of.

January 14, 2015
rekha

(MAHESH GROVER)
JUDGE