

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

**FAO No. 2028 of 1994 (O&M)
Decided on : 04.03.2015**

Gurdial Singh and Another

...Appellants

versus

Aphla Singh and Others

...Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

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. Nitin Goyal, Advocate for
Mr. Sanjiv Gupta, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for respondent No. 5.

K. C. PURI, J. (ORAL)

Challenge in this appeal is to the judgment dated 12.11.1993, passed by Shri Surinder Singh, Motor Accident Claims Tribunal, Karnal, by driver and one of the co-owner of tractor No. HYC-8611.

Briefly stated, on 24.11.1988, deceased-Pitambar Singh alongwith Naib Singh was going from Karnal towards liquor vend Nagla Farm on a motor-cycle which was being driven by Pitambar Singh. When they reached near Nagla Megha crossing, Gurdial Singh-respondent No. 1 came from the side of Nagla Megha while driving tractor No. HYC-8611 rashly and negligently and struck against the motor-cycle as a result of which Pitambar Singh died at the spot while Naib Singh was injured and accordingly he was taken to Civil Hospital, Karnal. The amount of Rs. 2,00,000/- was claimed as compensation.

The claim petition was contested by respondents. Respondent No. 1-Gurdial Singh, now appellant filed written statement alleging that no accident has taken place with the tractor in question. Respondent-Sham Lal also filed separate written statement on the same line.

Respondent No. 3-Insurance company has denied the liability on the ground that vehicle was not insured with it.

Replications to the written statements reiterating the stand taken in the petition were filed. From the pleadings of the parties, following issues were framed:-

1. Whether the accident in question took place due to rash and negligent driving of tractor No. HYC-8611 by respondent No. 1-Gurdial Singh? OPP
2. If issue No. 1 is proved, whether the petitioners are entitled to get any compensation, if so, how much and from which of the respondents? OPP
3. Whether the insurance company is not liable to pay compensation in view of the preliminary objections taken in the written statement? OPR
4. Relief.

The learned trial Court after appraisal of the evidence held that there is contributory negligence in respect of driving of tractor No. 8611 by appellant-Gurdial Singh and Pitambar Singh was also negligent while driving his motor-cycle.

The liability was fastened to the extent of 50% upon the appellants. The appellants were held liable to pay the amount of compensation jointly and severally. The said judgment has been challenged before this Court.

The only point urged before this Court is that Ram Chand, now respondent No. 6, is the co-owner of the tractor in question and no liability has been fastened against him. Learned counsel for the appellant has referred to para No. 4 of the grounds of appeal. It is argued that Ram Chand is the co-owner of the tractor in question. So, he is also jointly and severally liable alongwith appellant. However, learned counsel for the appellant could not point out any evidence on the file from which it can be ascertain that Ram Chand is the co-owner.

In these circumstances, it cannot be said that Ram Chand is also liable to pay the compensation. So, the appeal is without any merit and same stands dismissed.

However, the appellants after paying the amount may file the suit against Ram Chand if they are able to prove that Ram Chand is the co-owner of the vehicle.

A copy of the judgment be sent to learned Tribunal for compliance.

March 04, 2015
dk kamra

(K.C. PURI)
JUDGE