

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1691 of 1995 (O&M)
Date of Decision:23.09.2015

Padma Devi and others

....Appellants

Versus

Vijay Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Ram Chander, Advocate for the appellants.

Mr. V.K. Garg, Advocate for respondent No.3-
Oriental Insurance Company Ltd.

NAVITA SINGH, J.

1. The appeal is preferred against the award dated 21.04.1995 whereby the Motor Accident Claims Tribunal, Karnal (Tribunal for short), dismissed the petition filed by the appellants.

2. The case of the appellants was that Raj Kumar, husband of appellant No.1 and father of the other appellants, died in a roadside accident, which took place on 31.01.1992 near railway level crossing in Taraori, Karnal. The deceased was hit by truck No.HNL-2144 from behind when he got down from a bus and was proceeding on foot towards village Ramana.

3. Counsel for the appellants argued that despite sufficient evidence having been led, the Tribunal dismissed the petition and the order was, therefore, erroneous and illegal. Reference was made to the finding of the Tribunal wherein it was mentioned that the deceased was crossing the railway line but in the site plan (Ex.P-1) prepared by the police, there was no railway crossing at that point. It was contended that the case of the appellants was not that the deceased was hit while he was crossing the railway line but was that he had crossed the railway line and the truck which was turning towards the godowns hit him from behind.

This contention, however, will not be acceptable because the site plan (Ex.P-1) shows that there was a very broad railway line near the place of occurrence with four different lines but the accident took place at a distance from there. The alleged eye witness Bhupinder Bansal said that the deceased was crossing the railway line and there was lot of rush at the place of accident and railway gate had just opened. It was further stated by the witness that after sometime, the deceased alighted from the bus and started going towards Taraori.

4. It was, therefore, rightly held by the Tribunal that the deceased himself was negligent as he got down from the bus at the place which was not a regular stop and also did so at the level crossing when there was lot of rush as the railway gate had just opened. If the version of the eye witness is believed, the accident occurred due to the negligence of the deceased and if the site plan (Ex.P-1) is believed, then the statement of Bhupinder Bansal, so called eye witness, becomes un-creditworthy as the place of occurrence shown in the site plan and that given by the witness do not coincide.

5. The Tribunal also held that the eye witness was known to the deceased since long and was his partner, but surprisingly the FIR was not lodged by Bhupinder Bansal himself and one Pawan Kumar had lodged the FIR. Interestingly, Pawan Kumar, the author of the FIR, was not examined.

6. A well reasoned order was passed by the Tribunal which calls for no interference.

7. The appeal is dismissed.

(NAVITA SINGH)
JUDGE

23.09.2015
Ishwar

Whether to be referred to reporter: No