

In the High Court of Punjab and Haryana at Chandigarh

.....

(1) F.A.O. No.811 of 1995

.....

Date of decision:11.5.2015

Samsad and another

.....Appellants

v.

The Rajasthan State Road Transport Corporation, Jaipur and another

.....Respondents

....

(2) F.A.O. No.1735 of 1996

.....

Shamshad

.....Appellant

v.

Suraj Singh and another

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Chandeeep Singh, Advocate for Mr. Sandeep Vemani,
Advocate for the appellants in both the FAOs.

Ms. Nidhi, Advocate for Mr. S.S. Behl, Advocate for
respondent No.1-RSRTC in FAO No.811 of 1995 and for
respondent No.2-RSRTC in FAO No.1735 of 1996.

Mr. Harsh Aggarwal, Advocate for respondent No.2-Insurance
Company in FAO No.811 of 1995.

None for respondent No.1 in FAO No.1735 of 1996.

.....

Inderjit Singh, J.

This order will dispose of the above mentioned two appeals as the same arise out of the same accident, but two different awards i.e. one dated 8.9.1994 and the other dated 1.2.1996 passed by Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') passed in two different claim petitions i.e. one filed by Rajasthan State Road Transport Corporation, Jaipur (hereinafter referred to a 'RSRTC') against Samsad and others and the other filed by Shamshad against Suraj Singh and another.

The brief facts of the case are taken from FAO No.811 of 1995 pertaining to claim petition filed under Section 166 of the Motor Vehicle Act, 1988 (hereinafter referred to as 'the Act') by RSRTC against Samsad-Driver of offending truck No.HRG-6049, Chiranji Lal- and The New India Assurance Company Limited-Insurer. It is stated in the claim petition that the petitioner-RSRTC is the owner of bus No.RJ-14-P-1097 (hereinafter referred to as 'the Roadways Bus'). On 5.3.1992, the aforesaid Roadways Bus was proceeding from Delhi to Sirohi being driven by Suraj Singh-Driver. At about 8.30 p.m., the bus reached near Sirol Bye-pass on National Highway No.8 that is near Gurgaon area. At the same time, truck No.HRG-6049 came from the opposite direction. The case of the petitioner is that the said truck which was being driven rashly and negligently, after breaking the road divider, came on the wrong side of the road and dashed into the Roadways bus. As a result of the impact of the accident, both the front side glasses of the bus were broken and some other damage was also caused to it. Suraj Singh -Driver went to the Police Station Sadar Gurgaon, but his

report was not recorded. It is also alleged that the offending truck was being driven by Samsad-respondent No.1. The claim petition for compensation of ₹31,720/- was filed.

In the written statement, respondents No.1 and 2 Driver and owner of the offending truck controverted the material averments of the petitioner and pleaded that the accident had occurred due to rash and negligent driving of Roadways Bus by its driver and for that claim petition had already been filed by respondent No.1. They also denied that the accident had taken place due to rash and negligent driving of alleged offending truck by respondent No.1.

In a separate written statement, respondent No.3-Insurance Company also denied the averments made in the claim petition.

The learned Tribunal after discussing the evidence on record accepted the claim petition and awarded compensation of ₹31,720/- to the petitioner along with interest @ 12% per annum from the date of filing of the petition. Respondents No.1 and 2 were held jointly and severally liable to make the payment of the compensation whereas respondent No.3 was held liable to the extent of ₹6,000/- only. The learned Tribunal after discussing the evidence on record specially the statements of Suraj Singh-Driver PW-1, PW-2 Ram Gopal, who was the Conductor on the Roadways Bus and PW-3 Brij Mohan Sharma-employee of the petitioner and also the statement of Sham Sunder Sharma PW-4, who was posted as Assistant Traffic Inspector on the date of accident at Delhi and who inspected the spot after the incident and had prepared the report, decided that the accident had

[4]

taken place due to rash and negligent driving of Samsad respondent No.1, who has appeared as RW-2 into the witness box.

Aggrieved from this award dated 8.9.1994, the Driver of the offending truck Samsad and Chiranji Lal have filed this appeal.

Second appeal F.A.O. No.1735 of 1996 has been filed by Shamshad-driver of the offending truck against the award dated 1.2.1996 in the claim petition filed by him against Suraj Singh-Driver and RSRTC under Section 166 of the Act for claiming compensation regarding the injuries on his person. This claim petition filed by claimant Shamshad has been dismissed by the Tribunal by discussing the evidence.

Notice of motion in both these appeals has been issued. Ms. Nidhi, learned Advocate appearing for Mr. S.S. Behl, Advocate has put in appearance on behalf of respondent-RSRTC and contested these appeals.

I have heard learned counsel for the parties and have gone through the record.

In the claim petition filed by RSRTC, the claimant examined Suraj Singh as PW-1, who was Driver of the Roadways Bus. He deposed as per the version of the claimant-RSRTC. He deposed that the accident took place due to the rash and negligent driving of respondent No.1-Shamshad-driver of the offending truck. His statement was supported and corroborated by another eye witness Ram Gopal PW-2, who was Conductor on the Roadways Bus. Then the statement of Sham Sunder Sharma PW-4, who was posted as Assistant Traffic Inspector and who visited the spot after the accident and prepared his report, deposed that the accident had taken place

due to the rash and negligent driving of the offending truck. Even B.N. Bhatia PW-5 proved the photographs Ex.PW.5/4 to Ex.PW.5/6 of the place of accident.

On the other hand, the respondents examined Harish Kumar Gambhir RW-1, who is Ahlmad of the Court and who brought the summoned record pertaining to the case pending against Suraj Singh PW-1 i.e. Driver of the Roadways Bus. Shamshad-respondent also appeared as RW-2 and deposed as per version of the respondents. Both the parties have admitted the accident. The counsel for the Driver of the offending truck mainly relied upon the registration of the FIR against the driver of the Roadways Bus. The mere registration of the FIR will itself not prove the negligency on the part of the driver. The case of the claimant-RSRTC is that the driver of the Roadways Bus along with PW-4 Sham Sunder Sharma went to the Police Station, but the FIR was not registered. The statement of the Driver of the Roadways Bus Suraj Singh PW-1 is supported by Conductor of the Roadways Bus PW-2 Ram Gopal and Sham Sunder Sharma PW-4, Assistant Traffic Inspector. Further Suraj Singh PW-1 had written a letter to S.P. Gurgaon regarding the occurrence in question vide letter dated 25.5.1992. It is admitted case that the Roadways Bus was going on the correct lane.

The counsel for the Driver of the offending truck argued that as the other side of the road was blocked by placing drums, therefore, the truck was in slow speed and had come from the divider's gap. Even if it is taken that the truck had come on this lane due to blocking of the road for repair

[6]

etc., even then it was the duty of the truck driver to take all precautions before entering into the other lane through the divider's gap. I have perused the statements of the witnesses. There is nothing in the cross-examination of the witnesses examined by the claimant-RSRTC. The findings of the Tribunal given in the awards are correct and as per law, which do not require any interference from this Court and the same are upheld. In no way, it can be held that the evidence has not been appreciated in correct perspective.

In the second appeal also, which was filed by Shamshad, the appellant has examined the same witnesses. In this award also, learned Tribunal has reached to the conclusion that the driver of the offending truck had taken the vehicle to the other side through divider's gap and the Tribunal held that the accident had taken place due to the rash and negligent driving of the Driver Shamshad of the offending truck. It is also held in this case that no cogent evidence has come on the file that the road was blocked at that time.

Therefore, from the above discussion, I find that the findings given by the Tribunal in both the awards regarding which the appeals have been filed are correct and as per law, which do not require any interference this Court and the same are upheld.

Finding no merit in both the appeals, the same are dismissed.

May 11, 2015.

(Inderjit Singh)
Judge

hsp