

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

FAO No. 2998 of 1999 (O&M)

Date of decision : 4.8.2015

P.S.E.B. and another

... Appellants

VS

Kulwinder Kaur and others

.... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Sukhbir Singh, Advocate, for the appellants.

Mr. Vijay Lath, Advocate, for respondent no.1.

Rajesh Bindal J.

Challenge in the aforementioned appeal is to the award dated 28.1.1999 passed by the learned Motor Accident Claims Tribunal, Nawanshahr (hereinafter to be referred as “the Tribunal”).

Briefly the facts are that on 24.6.1997 at about 12 noon, Om Lal alias Manjit Singh was going on scooter from Nawanshahr to village Hussainpur. When he reached near the Blood Bank, Nawanshahr Rahon Road, vehicle bearing no. PBQ-3945 being driven by Hari Singh in a rash and negligent manner, struck against the scooter. As a result of this accident, Om Lal alias Manjit Singh died. The dependents of the deceased filed claim petition before the learned Tribunal, which was allowed. It is this award which is impugned by the appellants.

Learned counsel for the appellants submitted that the manner in which the accident took place clearly established that driver of the appellants was not at all negligent. It was further submitted that at the time of accident, the speed of the vehicle driven by Hari Singh was not more than 10 to 15 k.m. per hour as there was great rush on the road. The deceased was driving fast and on the wrong side of the road. There was 100 K.V. Transformer on the vehicle and Anoop Singh JE was also on the vehicle. At that point of time, one bullock cart was coming from the opposite direction and some other vehicle was also coming behind the cart. As the vehicle

reached near the bullock cart, deceased Om Lal came at a fast speed and tried to pass through the gap between the bullock cart, however, he could not manage to pass through the gap and struck with the bullock cart and right side door nob of the vehicle and got serious injuries. The submission is that Hari Singh and other staff accompanying him carried the deceased to Civil Hospital, Nawanshahr. The accident occurred due to the rash and negligent driving of the deceased himself. The learned Tribunal has failed to record a definite finding regarding negligence of the two vehicles.

After hearing learned counsel for the appellants, in my opinion, the appeal deserves to be dismissed. Though issue is sought to be raised regarding the negligence of the deceased, but the most important witness is the person, who was bringing the bullock cart from Nawanshahr side, has not been produced in evidence. It has come in the evidence that driver Hari Singh did not disclose the name of that person but he knew his name and whereabouts. JE Anoop Singh, who was examined as RW2 by Hari Singh, stated to be sitting in the offending vehicle. Had he been there, he would have lodged the complaint with the police regarding the accident due to the negligence on the part of deceased Om Lal alias Manjit Singh. The learned Tribunal has observed that RW3 Gurdev Ram UDC in his cross-examination admitted that there are cuttings in the entry of the log book and the same have not been signed by any official of the appellant Board, which clearly shows that the records have been tampered with. Further Kashmir Ram AW3, who was the witness of the accident, has been put to lengthy cross-examination and the learned Tribunal found his version trustworthy. No material has been pointed out by the learned counsel for the appellants to enable this court to opine that the findings recorded by the Tribunal, are perverse. Accordingly the appeal stands dismissed.

4.8.2015
vs.

(Rajesh Bindal)
Judge