

(327) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 1285 of 2001

Date of decision: 6.5.2015

Dal Singh

.... Appellant

Versus

State of Punjab & Ors.

.... Respondents

Present: Mr. Roshan Sharma, Advocate for the appellant.

None for respondents No.1 to 4.

Mr. Rohit Goswami, Advocate for Mr. D.P. Gupta,
Advocate for respondent No.5 – National Insurance
Company Limited.

S.S. Saron, J.

This appeal has been filed by Dal Singh (appellant) against the judgment and award dated 25.8.2000 passed by the learned Motor Accident Claims Tribunal, Karnal ('Tribunal' – for short) whereby his petition under Section 166 of the Motor Vehicles Act, 1988 claiming a sum of Rs. 30,000/- on account of the death of his cow in a road accident that had occurred on 18.8.2000 has been dismissed.

According to the appellant, he purchased a cow of Holision breed from one Anand son of Simru for a sum of Rs.8000/- on 18.8.1996. The cow was eight months' pregnant and was ready for delivery in the near future. The claimant-appellant along with

the cow had reached near the Police Post Madhuban. In the meantime, the offending truck hit the cow. As a result of the impact, the cow received multiple and grievous injuries. Case FIR No.569 dated 30.8.1996 was registered for the offences under Sections 279 and 429 Indian Penal Code on the statement of Dal Singh (appellant). The State of Punjab and the District Transport Officer, Amritsar (owner of the truck No. PIA – 9199) were impleaded as respondents No.1 & 2. Amandeep Singh and Lakhminder Singh (respondents No. 3 and 4) were drivers of the offending truck which was insured with National Insurance Company Limited (respondent No.5). The petition insofar as Amandeep Singh and Lakhminder Singh (respondents No.3 and 4) are concerned, was dismissed vide order dated 8.4.2000.

National Insurance Company Limited (respondent No.5) filed its written statement. A preliminary objection was raised as to the maintainability, estoppel and that the driver of the truck was not holding a valid and effective driving licence at the time of accident. On merits, it was pleaded that the accident occurred solely due to the negligence of the cow itself.

On the pleadings of the parties, the following issues were framed:-

- (1) Whether the accident causing death of cow owned by the claimant Dal Singh was the result of rash or negligent driving of truck No. PIA – 9199 by respondent No.4 Lakhminder Singh as alleged? OPP
- (2) Whether the driver of the offending truck was not holding a valid driving licence at the time of accident, as alleged?

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- (3) To what amount of compensation the claimant is entitled to recover, if so from whom?
- (4) Relief.

The question whether a claim petition for the death of a cow is maintainable need not be gone into in the present case as no evidence in any case has been led by the appellant to prove and establish that his cow had died in a road accident. The claimant - appellant appeared as a witness and he stated that in the month of August 1996, he along with the owner of the cow was coming from Uchana Samana to Jundla along with the cow. In the meantime, the offending truck bearing No. PIA 9199 came from the rear in a rash and negligent manner and struck against the cow. Due to the impact, the leg of the cow got fractured and after one month, the cow had died.

The learned Tribunal held that the accident had occurred on 18.8.2000 and the FIR was lodged on 30.8.2000. The cow itself was purchased in August 1996. It was held that no witness had been examined by the claimant to prove the fact that the driver of the truck was facing a criminal trial for causing the accident. Besides, no explanation had been given as to why a report of the accident that occurred on 18.8.2000 was not lodged. It was held that the claimant had not adduced any evidence to prove the fact that his cow died due to the injuries suffered in the accident. A copy of MLR mark B was placed on record. From this document it was held that it was not proved that the cow of the claimant had died. According to the case of the claimant only leg of the cow was fractured. With this injury, it was not possible to draw an inference that the cow had died after one month of the accident. The

claimant had not examined the veterinary surgeon who conducted the post mortem of the cow to prove that his cow died due to the injuries suffered in the road accident. In the circumstances, no merit was found in the claim petition.

There is nothing on record to dislodge the said findings of facts reached at by the learned Tribunal to show that the cow had died in the accident. The learned Tribunal on correct appreciation of the facts and circumstances has rightly come to the conclusion that it was not proved that the cow had died in the accident that had occurred on 18.8.2000.

Consequently, there is no merit in the appeal and the same is dismissed.

(S.S. Saron)
Judge

6.5.2015
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Note: Whether to be referred to the Reporter: Yes/ No.