

In the High Court of Punjab and Haryana at Chandigarh

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F.A.O.No.9 of 1998 (O&M)

.....

Date of decision:20.3.2015

Premi and others

.....Appellants

v.

State of Rajasthan and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Akshay Jain, Advocate for the appellants.

Mr. Anil Kumar Gahlawat, Advocate for respondents No.1
and 2.

.....

Inderjit Singh, J.

This appeal has been filed against the impugned award dated 3.11.1997 passed by the Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal'), vide which the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') by Smt. Premi etc. present appellants against the present respondents has been dismissed.

Respondents No.1 and 2 have put in appearance through their counsel and contested this appeal.

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

Smt. Premi is the widow of Ram Karan and appellants No.2 to 5 are children and appellant No.6 is mother of Ram Karan and they sought the compensation on account of death of Ram Karan as a result of road accident caused on 10.7.1996 due to rash and negligent driving of respondent No.3 Bishan Lal-Driver of bus No.RJ-11PO-228. Ram Karan (since deceased) was travelling in truck No.HR-26/9719, which was being driven by Jagbir Singh. He had gone to the Octroi Post on Ajmer Road, Bhilwara and was coming back to board the truck, when he was hit by the above said bus and died. He was aged 31 years at the time of death and was in private service earning about ₹3,000/- per month and an amount of ₹10,00,000/- had been claimed with interest.

The petition was contested by State of Rajasthan through Collector and General Manager, Rajasthan State Road Transport Corporation. The following issues were framed:-

- “1. Whether Ram Karan son of Mai Chand died in a motor vehicle accident due to rash and negligent driving of respondent No.3, driver of Bus No.RJ-11/PO-228, if so to what effect? OPP.
2. If issue No.1 is proved in the affirmative, to what amount of compensation the claimants are entitled to and from whom? OPP.
3. Relief.”

The Tribunal after discussing the evidence held that the petitioners failed to prove the rash and negligent driving of the bus by respondent No.3

by leading cogent evidence and it was ordered that respondents No.1 and 2 shall be liable to pay an amount of ₹25,000/- to the petitioners with interest at the rate of 12% per annum from the date of petition onwards as no fault liability. The claim under Section 166 of the Act has not been granted.

At the time of arguments, learned counsel for the appellants argued that the appellants have proved the copy of the post-mortem report as well as the FIR. From the FIR as well as the post-mortem report, it is duly proved that the accident had taken place due to rash and negligent driving of respondent No.3-driver.

A perusal of the evidence on record shows that eye witness in the present case had not been examined and the Court had discussed this fact while passing the award. The statement of appellant No.1 widow of Ram Karan-deceased was recorded, who knows nothing about the accident. She had simply stated that her husband had died in a road accident on 10.7.1996. Jagbir Singh, who was an eye witness and who made the complaint to the Police, had not been examined. Therefore, there is no cogent evidence on record to prove the rash and negligent driving of the bus by Bishan Lal-Driver/respondent No.3. From the FIR alone, it cannot be held that the bus was being driven rashly and negligently by Bishan Lal driver of the bus. The post-mortem report also only can corroborate the fact that Ram Karan had died in the road accident case. Post-mortem report also cannot prove the fact of rash and negligent driving. As the appellants have failed to prove the rash and negligent driving, therefore, no claim can be granted under Section 166 of the Act. Only the claim for no fault liability is

to be awarded which has already been granted by the Tribunal.

The learned counsel for the appellants has placed reliance on the judgment in United India Insurance Company Limited v. Kamla Rani and others (SC), 1997 (4) RCR (Civil) 539. This judgment having distinguished facts will not apply in the present case as in that case it is only held that the Tribunals are required to evolve their own procedure to meet the ends of justice, based on principles of justice, equity and good conscience. It nowhere shows that the claim should be granted even if rash and negligent driving is not proved.

Learned counsel for the appellants also placed reliance on the judgment of the Hon'ble Supreme Court in N.K.V. Bros. (Pvt.) Ltd. v. M. Karumai Ammal and others, 1980 ACJ 435. This judgment having distinguished facts will not apply in the present case. In this case, it has been held that claim petition under the Motor Vehicles Act, the evidence should not be scrutinized, in the manner, as is done in a civil or criminal case. The proceedings, before the Tribunal, are of the nature of summary enquiry, whereas, in a criminal case, the rule is of proof beyond reasonable doubt and in a civil case the rule is preponderance of probabilities. If, there is some evidence before the Claims Tribunal to prove a fact, no nicety, doubt or suspicion should weigh it, in deciding a Motor Accident Claims case. I have gone through the law laid down in this judgment, which is having distinguished facts and will not apply in the present case.

Learned counsel for the appellants also placed reliance on the judgment in Bimla Devi and others v. Himachal Road Transport Corporation

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and others, 2009 (3) R.C.R. (Civil) 805. I have gone through this judgment which is having distinguished facts and will not apply in the present case.

Learned counsel for the appellants also placed reliance on the judgment in Smt. Sunita v. Shri Darshan Singh and others, 2013(3) PLR 255. I have gone through this judgment, which is having distinguished facts and will not apply in the present case. In none of the cases, on which the learned counsel for the appellants has placed reliance, it has been held that the copies of FIR and of post-mortem report alone will prove the rash and negligent driving of Bishan Lal. Therefore, the law laid down in these judgments will not apply in the present case.

Therefore, from the evidence on record, I find that the award passed by the Tribunal is correct and as per law which does not require any interference from this Court and the same is upheld.

Therefore, finding no merit in the appeal, the same is dismissed.

March 20, 2015.

(Inderjit Singh)
Judge

hsp