

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

F.A.O No. 914 of 1999

Date of decision:- 14.12.2015

Rajasthan State Road Transport Co.

...Appellant

Versus

Smt. Komli and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. S.S. Behl, Advocate
for the appellant

None for respondents

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J. (Oral)

The present appeal is against the order/award dated 20.11.1997 passed by learned Motor Accident Claims Tribunal, whereby the appellant-Company (for short 'the appellant') was held liable to make the compensation to the tune of Rs.60,000/- to the claimants on account of no fault liability.

Facts not in dispute

2. On 17.07.1984, Om Parkash was driving the bus of the appellant bearing No. RNE-6082 and a matadorr bearing NO. DED-

6442 came in front of him being driven by Lal Chand and accident took place in which Lal Chand lost his life. The accident took place near Village Mohali in F.R. Jhirka. This accident was witnessed by Vinod, Sunita Arora, Kumar Rita Sharma and Amit Sharma who were sitting in the matadoor.

COMPENSATION ASSESSED BY THE MACT

3. The learned Tribunal held that the petitioners are not able to prove the rash and negligent driving of Om Parkash driver of the offending vehicle, as Komli has only given statement to the effect that the driver of the offending vehicle was driving the vehicle rashly but she was not the eye witness of the accident. Further P.W.2 Rama Nand had only brought the record of F.I.R No. 70 of 1984 and it has been admitted by him that respondent No. 2-Om Parkash has been acquitted in the criminal case, vide judgment dated 23.03.1988. None of the eye witnesses have been examined by the claimants to narrate the oral version of the accident. Further in the criminal proceedings, it has been held that the breaks of the matadoor was not in working condition and steering was also out of control and there is no rebuttal to the said evidence of the respondents and there is nothing on record which proves that the said judgment has been upset by the higher Court. Thus, the Tribunal awarded Rs.60,000/- i.e Rs.50,000/- on

account of no fault liability and Rs.10,000/- towards funeral expenses.

ARGUMENTS ADVANCED

Learned counsel for the appellant contends that the learned Tribunal has misread and misinterpreted Section 140 of the Motor Vehicle Act by giving compensation of Rs.50,000/- to the claimants under no fault liability as once the claimants have not been able to prove rash and negligent driving of Om Parkash, their claim petition deserves to be dismissed.

This argument is liable to be rejected in view of the judgment of this Court in a case of ***Sumitri Devi v. Danesh Kumar 1997(1) RCR 693 and*** judgment of Hon'ble the Supreme Court in a case of ***K.K. Kunhimohammed v. P.A. Ahmedkutty and others 1987 ACJ 872.***

In the above mentioned judgments, Section 140 of the Motor Vehicle Act has been dealt with and it has been observed that keeping in view the object of the Act and intention of the legislature for providing higher rate of compensation due to diminishing value of rupee and buying capacity in the market, the amendment has to be given such interpretation which serves the object of the Act and goes in favour of those in whose favour the provisions have been made.

Therefore, the amendment would also apply in the cases involving

accidents prior to the date of amendment and the claimants in such cases also would be entitled to a compensation of Rs.50,000/- as no fault liability.

Applying the ratio of the above said judgment, no ground is made out to interfere in order/award dated 20.11.1997 passed by learned Motor Accident Claims Tribunal.

Accordingly, the appeal is dismissed.

December 14, 2015

G Arora

(**RITU BAHRI**)
JUDGE