

In the High Court of Punjab and Haryana at Chandigarh
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(1) F.A.O. No.4896 of 2006 (O&M)
.....

Date of decision:5.8.2015

State of Punjab and another
.....Appellants
v.

Charanjit Kaur and others
.....Respondents
....

(2) F.A.O. No.1121 of 2007 (O&M)
.....

State of Punjab and another
.....Appellants
v.

Ankur Dhanda and another
.....Respondents
....

(3) F.A.O. No.1122 of 2007 (O&M)
.....

State of Punjab and another
.....Appellants
v.

Sital Singh alias Sheetal Singh and another
.....Respondents
....

(4) F.A.O. No.1123 of 2007 (O&M)
.....

State of Punjab and another
.....Appellants
v.

Sham Sunder Dhanda and another
.....Respondents
....

Coram : Hon'ble Mr. Justice Inderjit Singh
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Present: Mr. N.K. Verma, Senior Deputy Advocate General, Punjab for the appellants.

Mr. Satinder Khanna, Advocate for respondents-claimants in all the appeals.

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Inderjit Singh, J.

This judgment will dispose of the above four appeals as these have been arisen from the same accident and the same point is involved in all these cases.

The State has filed these appeals for setting aside the awards i.e. one award dated 31.5.2006 and three awards dated 27.7.2006 passed by the Motor Accident Claims Tribunal, Ludhiana.

The brief facts of the cases are taken from FAO No.4896 of 2006. As per the case, on 4.7.2002, Sukhdev Singh along with other residents of Jagraon started for Dera Baba Bhadbhag Singh on Tata-407 bearing registration No.PB-10S-9730, which was being driven by Sital Singh on the left side of the road from Jagraon to Ludhiana. It was 2.40 p.m., they reached opposite Sartaj Palace, Near Sacred Heart Convent School on Ferozepur Road, Jagraon, a bus bearing registration No.PB-12C-9350 (hereinafter referred to as 'the offending bus') came from the opposite side which was being driven rashly and negligently by its driver Gurnek Singh and struck against the above said Tata 407 by coming on the wrong side of the road. Consequently, all the occupants of Tata 407 including Sukhdev Singh received injuries, who succumbed to the injuries. An FIR

was also registered against Gurnek Singh, driver of the bus at Police Station Jagraon.

Notice of the claim petitions was given to the respondents. Respondents No.1 and 2 in all the claim petitions filed reply and contested the petitions raising the preliminary objections that goods carrier is not allowed to carry passengers. The driver of the mini truck was driving the same rashly and negligently at a high speed, which caused the accident. The owner, driver and insurer of Tata 407 vehicle are not impleaded as respondents. The claimants are entitled for compensation, if any, from the owner, driver and insurer of the mini truck Tata 407. It is also stated that the Police registered false case against the driver of the offending bus. The Bus No.PB-12C-9350 was not insured since it is a government vehicle. The said bus was being driven by Gurnek Singh. It is the case of respondents No.1 and 2 that mini truck was being driven rashly and negligently on the wrong side. The driver of the bus blew horn and in order to save the passengers took the bus towards its right hand side on 'Kachcha' road and stopped the bus. The driver of the mini truck, who was driving the said vehicle rashly and negligently, struck against the bus. The accident was a result of rash and negligent driving by the driver mini truck.

The issues were framed. Both the parties produced the evidence and the Tribunal after going through the evidence held the driver-respondent No.3 Gurnek Singh responsible for rash and negligent driving for causing the accident in question and accordingly awards were passed for compensation.

Aggrieved from these awards, these appeals have been filed by the State of Punjab.

Notice of motion was issued in these appeals. Mr. Satinder Khanna, learned Advocate has put in appearance on behalf of the respondents-claimants and contested these appeals.

At the time of arguments, learned counsel for the State argued that it is a case of negligence of the driver of the mini truck as he was a handicapped. At the most, it can be held that the accident had taken place due to the contributory negligence of the driver of the mini truck also. Learned State counsel also argued that licence of the driver of the mini truck had not been placed on record. The vehicle was goods carrier vehicle but it was carrying passengers at the time of accident. Driver of the mini truck and its Insurance Company were also not made a party.

On the other hand, learned counsel for the respondents-claimants argued that the findings of the Tribunal have been given by correctly appreciating the evidence.

After going through the record and after hearing learned State counsel for the appellants and learned counsel for the respondents-claimants, I find that the claimants have come to the witness box. The claimants have examined the eye witness, who deposed as per the claimants' version and deposed that Tata 407 was being driven by Sital Singh on correct side of the road and at slow speed and the accident took place due to rash and negligent driving of Gurnek Singh, driver of the offending bus. Even in the written statement, it is the case of the respondents that the driver

of the offending bus took the bus towards the extreme right side and stopped on the 'Kachcha' berm, which means the version of the claimants that the driver of the offending bus by coming from the wrong side hit the mini truck is supported and corroborated by the averments in the written statement. The FIR has been registered in the present case, which further supports the claimants' version.

On the other hand, the driver of the offending bus also stated to have died during the proceedings and only Wazir Singh RW-1 Conductor has been examined by the respondents. He deposed as per version given in the written statement and stated that driver of the bus in order to avoid the accident took his bus towards right hand side on the 'Kachcha' berm and stopped the bus. The version given by RW-1 Wazir Singh is not supported and corroborated by any other documentary evidence or from any other oral evidence. RW-1 admitted in the cross-examination that the challan was presented against Gurnek Singh in the Court. He also admitted that driver side of the bus struck against the driver side of the Tata 407 near the driver window. There is pleading of the present appellants in the written statement that the driver of Tata 407, namely, Sital Singh was a handicapped person. Mere oral statement of RW-1 Wazir Singh is insufficient to hold that the driver of the mini truck was handicapped. No reliance can be placed on the statement of RW-1 which looks after thought, as he admits that he had not given any statement to the Police during the investigation of the case. So, he was deposing before the Tribunal for the first time and his statement is not supported by any other evidence. The non-production of the licence of

the driver of the mini truck also will not show itself that the accident was caused due to contributory negligence. No adverse inference can be drawn regarding the same. The respondents have not shown anything that they applied for production of the driving licence from the claimants etc. The mere fact that goods carriage vehicle was used for carrying passengers will not put the liability on the Insurance Company of the Tata 407. The claim petitions are under Section 166 of the Motor Vehicles Act and the offending vehicle is bus of respondents No.1 and 2. Therefore, the owner and Insurance Company of Tata 407 are not necessary parties.

Therefore, from the above discussion, I find no merit in the present appeals. The findings given by the Tribunal in all these claim petitions regarding liability to pay compensation are correct and as per law and have been given by correctly appreciating the evidence in right perspective.

For the forgoing reasons, there is no merit in these appeals and the same are accordingly dismissed.

August 5, 2015.

(Inderjit Singh)
Judge

hsp