

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

**(1)** **FAO No.2546 of 2012 (O&M)**  
Decided on: 24.4.2015.

Ram Karan and another

... Appellants

Versus

Lal Chand and others

... Respondents

**(2)** **FAO No.2547 of 2012 (O&M)**

Prem Chand and another

... Appellants

Versus

Lal Chand and others

... Respondents

**CORAM : HON'BLE MR. JUSTICE K. C. PURI**

Present : Mr. S.N. Pillania, Advocate,  
for the appellants.

Mr. Vineet Dhanda, Advocate,  
for respondents No.1 and 2.

Mr. Manmohan Garg, Advocate for  
Mr. Suman Jain, Advocate,  
for respondent No.3.

**K.C.PURI.J.**

Vide this judgment, I intend to dispose of afore-mentioned two appeals bearing FAO No. 2546 and 2547 of 2012 arising out of the same accident.

Briefly stated, two claim petitions were filed before the Motor Accident Claims Tribunal, Jind (for short “the Tribunal”).

One claim petition was preferred by Ram Karan and Smt. Roshni claiming compensation in respect of death of Chand son of Ram Karan and other claim petition was directed by legal heirs of Parshant son of Prem Chand. The case of the appellants is that on 11.2.2010 Parshant son of Prem Chand along with Chand son of Ram Karan was going on motor cycle No. HR-06-M-6099 to pond of village Naguran from school to take bath in pond. On the way, unknown vehicle hit their motor cycle which was later on found to be truck No. HR-55-E-0447.

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

1. Whether the accident in question has occurred due to rash and negligent driving of respondent No.1 Lal Chand while driving the truck bearing registration No. HR-55-E-0447 in which Chand son of Ram Karan and Parshant son of Prem Chand have died as alleged ?OPP
2. Whether the petitioners are entitled to compensation and if yes from whom and to what amount they are entitled to receive ?OPP
3. Whether the respondent No.1 driver of truck No. HR-55-E-0447 was not holding a valid and effective driving licence on the date of alleged accident, if to its effect ?OPR-3.

**4. Relief.**

Learned Tribunal after adjudicating the matter returned finding on issue No.1 against the claimants and in view of the fact that involvement of offending vehicle No. HR-55-E-0447 was not found, both the claim petitions were dismissed vide Award dated 31.1.2012 passed by the Tribunal.

Feeling dis-satisfied with the above said Award, both the set of appellants have preferred two appeals bearing FAO No. 2546 and 2547 of 2012 which have arisen out of the same Award and as such are being disposed of vide common judgment.

The controversy in the present lis resolves around the fact whether Chand and Parshant died due to rash and negligent driving of truck No. HR-55-E-0447. Learned Tribunal while discussing issue No.1 reached to the conclusion that claimants have failed to prove that Chand and Parshant have died due to rash and negligent driving of truck No.HR-55-E-0447. Learned Tribunal observed that claimants have not produced any evidence on the file to prove the fact that both Chand and Parshant have died due to rash and negligent driving of the offending vehicle No. HR-55-E-0447.

Record in this case was called for. In this case, FIR No.13 dated 11.2.2010 (Ex. PW-1/A) has been registered. In the said FIR, it is mentioned that unknown vehicle has hit the motor cycle resulting into the death of Parshant and Chand. The claimants

examined PW-2 Krishan Kumar SI who has simply stated that in this case, accident has taken place on 11.2.2010. He has stated that after investigation, the FIR in question was declared un-traced at the first instance, but later on, involvement of vehicle No. HR-55-E-0447 was found on 2.11.2010 i.e about after 9 months of the occurrence. He has not given any reasoning how the involvement of truck No. HR-55-E-0447 was found. Thereafter, the claimants examined PW-3 Prem Chand who has stated that he reached at the spot after  $\frac{1}{2}$  and  $\frac{3}{4}$  hours. The claimants have also examined PW-4 Ram Karan who in his affidavit has stated that on 11.2.2010 Parshant and Chand died due to driving of truck No. HR-55-E-0447 but in the cross-examination, he has stated that he has not reported the matter to the Police for about 9 months. It is highly unsafe to believe the testimony of Ram Karan regarding the occurrence. No other witness has been produced by the claimants to prove the involvement of respondent No.1 while driving the truck No. HR-55-E-0447.

So, in view of above discussion, the finding of the Tribunal on issue No.1 stands affirmed. Since the claimants have failed to prove that accident has taken place due to the rash and negligent driving of truck No. HR-55-E-0447 and as such both the appeals stand dismissed.

However, while parting with the judgment, it is observed that claimants are at liberty to claim the amount of

compensation under the head hit and run. Consequently, both the appeals stand dismissed.

24.4.2015.  
SN

**(K.C.PURI)**  
**JUDGE**