

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5442 of 2012 (O&M)
Date of Decision: April 27, 2015

United India Insurance Company Limited

...Appellant

Versus

Satya Rani and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.K.Bashamboo, Advocate
for the appellant.

Mr.Ranjit Saini, Advocate
for respondents No.1 to 3.

Mr.Naveen Gupta, Advocate
for respondents No.4 and 5.

INDERJIT SINGH, J.

Appellant United India Insurance Company Limited has filed this appeal against respondents Satya Rani, Vikram, Ramdhari (claimants), Rajiv Sharma (driver) and Shiv Kumar (owner) of offending tractor, challenging the impugned Award dated 15.05.2012 passed by learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'Tribunal'), vide which ₹13,70,500/- along with interest at the rate of 7.5% per annum from the date of institution of the petition till realization of the awarded amount has been awarded to the claimants.

Notice of motion was issued and respondents appeared through their respective counsel.

The record of the Tribunal was also summoned.

At the time of arguments, learned counsel for the appellant argued that the vehicle has been falsely planted in this case. He further argued that the statement of PW-4 Devender is not believable. As per his cross-examination, his statement has been recorded at 7.00-7.40 A.M. whereas the FIR has been registered at 9.10 A.M., in which neither registration number of the vehicle and nor name of the driver has been mentioned. Therefore, he argued that no such accident has taken place with the offending vehicle and the Insurance Company is not liable to pay any compensation. No other point has been argued.

On the other hand, learned counsel for the claimants-respondents argued that challan has been presented against the driver of the offending vehicle under Section 173 Cr.P.C. and he was charge-sheeted and trial is going on before the lower Court. He further argued that PW-4 Devender eye witness has deposed regarding the accident. The respondents-driver and owner have not filed any representation to the higher authorities nor made any complaint regarding false implication in this case. Therefore, he argued that offending vehicle has caused the accident and the findings of the Tribunal are correct.

After hearing learned counsel for the parties and after going through the record, I find that Satya Rani, Vikram and Ramdhari claimants filed claim petition against Rajiv Sharma (driver), Shiv Kumar (owner) and United India Insurance Company Limited (Insurer)

of offending tractor bearing registration No.PAE-7613, under Section 166 of the Motor Vehicles Act, 1988, mainly on the ground that Ved Parkash, husband of Satya Rani (claimant No.1), father of Vikram (claimant No.2) and son of Ramdhari (claimant No.3), died in the motor vehicular accident at 7.00 A.M. on 29.01.2011, which has been caused by the tractor bearing registration No.PAE-7613, being driven by respondent-driver Rajiv Sharma in a rash and negligent manner as well as at a very high speed, which hit the motorcycle of Ved Parkash, who succumbed to the injuries suffered by him in the accident. FIR No.56 dated 29.01.2011 under Sections 279 and 304-A IPC was also registered at Police Station City Yamuna Nagar against respondent No.1 on the statement of Vikram, son of the deceased.

The perusal of the evidence on record shows that in the claim petition, the time of the accident is given as 7.00 A.M. and the FIR has been got registered by Vikram, son of the deceased. It is settled law that FIR can be got registered by any person when a cognizable offence appears to have been committed. In the FIR, admittedly, registration number of the vehicle and name of the driver have not been mentioned. However, the statement of PW-4 Devender, eye witness to the occurrence, has been recorded later on but on the same day. He stated in cross-examination that his statement was recorded at about 7.00-7.40 A.M. The FIR has been registered on the statement of first informant i.e. Vikram, son of the deceased, in which no registration number of the vehicle and name of the driver have been mentioned but just after some time of the

accident, statement under Section 161 Cr.P.C. has been got recorded by the eye witness, who gave the registration number of the tractor as well as name of the driver. The investigation was conducted on the basis of the FIR and report under Section 173 Cr.P.C. has been presented against the driver-respondent Rajiv Sharma.

There is nothing on the record to show that false vehicle has been planted by the claimants. As per the evidence, the trial is going on against respondent-driver of the offending vehicle. I have gone through the statement of the eye witness. There is nothing on the record, from which it can be inferred that vehicle has been planted falsely in this case. The recovery memo of the tractor shows that this tractor has been taken into police possession during investigation. So, in no way, it can be held that the vehicle has been planted or statement of PW-4 Devender, eye witness, is not believable. If respondent-driver has been falsely implicated in this case, then the natural course for respondents-driver and owner was to make representation or complaint to the higher authorities but no such step has been taken.

In view of the above discussion, I find that findings in the Award dated 15.05.2012 given by the Tribunal are correct, as per evidence and law and do not require any interference from this Court.

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

April 27, 2015
Vgulati

(INDERJIT SINGH)
JUDGE