

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2388 of 2013 (O&M)
Date of Decision:24.09.2015

Harinder alias Mandar Singh

....Appellant

Versus

Sarita and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Ajay Kamboj, Advocate for
Mr. P.S. Jammu, Advocate for the appellant.

Ms. Ashima Mor, Amicus-Curiae for respondents No.2 to 4.

NAVITA SINGH, J.

1. This appeal is filed by the owner and driver of the offending vehicle seeking dismissal of the claim preferred by the respondents on the ground that the accident had occurred on account of the sole negligence of the deceased himself. The Motor Accident Claims Tribunal, Sirsa (Tribunal for short) awarded compensation to the tune of Rs.4,23,522/- and the award is sought to be set aside.

2. The case of the respondents was that on 23.8.2007, Sunil Kumar, who was running a Dhaba was returning after purchasing vegetables etc. for the Dhaba and was hit by the offending vehicle i.e. tractor No.RNK-4899 near bus stand of village Shergarh. The vehicle was being driven by the appellant in a rash and negligent manner. The accident was witnessed by Vijay Kumar. Sunil Kumar later on succumbed to his injuries in the PGI Chandigarh.

3. Counsel for the appellant argued that the Tribunal erred in ignoring the statement of Kikkar Singh, RW1, who had deposed that on the fateful day, there were many vehicles on the road and the deceased due to the headlights of the vehicle coming from the opposite side, lost control on his scooter and hit against the wall. However, the witness could not explain his presence at the spot.

His house was admittedly at a good distance from the place of occurrence and only his land was situated nearby. At the time of accident, it was dark as it was 7.40 pm in the end of August 2007 and it was not stated by the witness that he was present in the land for any work at that time. He also did not state as to for what reason he was present on the bus stand of village Shergarh.

4. On the other hand, we have the statement of Vijay Kumar in which he stated that the deceased was hit by the tractor which came towards the wrong side of the road and he had witnessed the accident. He said that he was on the motor-cycle just behind the deceased. Though cross examination at considerable length was conducted, no effective questions were put to the witness. He was asked about his presence with the deceased in the hospital at Bathinda and then at Chandigarh. He replied in affirmative and said that brother of the deceased namely Ranjit Singh was also with them who had signed all the relevant papers. The statement of this witness was also recorded by the police.

5. If the offending vehicle had the high beam on and the driver was not using the dipper, he was still at fault because the headlights must have blinded the scooterist. Kikkar Singh did not depose that the offending vehicle was not there on the road at the time of accident. He simply named the appellant deposing that he did not cause the accident.

6. The liability was rightly fastened on the appellant holding that the accident had occurred due to his negligence. It is the misfortune of the appellant that he did not get the vehicle insured so that the compensation could be paid by the Insurance Company.

7. The appeal is dismissed.

(NAVITA SINGH)
JUDGE

24.09.2015

Ishwar

Whether to be referred to reporter: No