

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3905 of 2014 (O&M)
Date of Decision: April 28, 2015

Kuldeep Singh and another

...Appellants

Versus

Bohti Devi

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jasbir Mor, Advocate
 for the appellants.

INDERJIT SINGH, J.**CM No.6633-CII of 2015**

This is an application for placing on record Annexure A-6
 (affidavit of petitioner for the purpose of examination in chief).

I have gone through the record.

Earlier, the appellants have filed application for placing on
 record documents A1 to A5 and one of the document is cross-
 examination of Surrender, whose chief-examination, now appellants
 want to placed on record. That application was declined by this Court
 while observing that same form part of the record of the Tribunal and
 need not be taken on record separately.

In view of the earlier order as well as fact that this
 document A6-chief examination is also part of record of the Tribunal,
 needs not to be taken on record separately. Therefore, the present

application is dismissed.

FAO No.3905 of 2014

Appellants Kuldeep Singh (owner) and Lakhi Singh (driver) have filed this appeal against Bohti Devi respondent-claimant, challenging the impugned Award dated 01.04.2014 passed by learned Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'Tribunal'), vide which ₹5,26,500/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till realization of the awarded amount has been awarded to the claimant.

The brief facts of the case are that Bohti Devi filed claim petition against Lakhi Singh (driver) and Kuldeep Singh (owner) of offending tractor bearing registration No.PB-27-2050, claiming the compensation on account of death of her son Satbir in a motor vehicular accident, which took place on 18.07.2012.

It is mainly stated in the claim petition that on 18.07.2012, Bijender, Satbir and Jatin were going from village Karsola to Jind on motorcycle bearing registration No.HR-31D-5818 being driven by Bijender. One Surender was also going to Jind on his motorcycle side by side with Bijender. At about 3.00 P.M., when they reached near Canal bridge Sunder Branch, Gatauli, then from the direction of Jind side, a Sonalika Tractor bearing registration No.PB-27-2050 loaded with fodder (*turi*) came being driven by Lakhi Singh driver rashly and negligently and hit the tractor against the motorcycle of Bijender, due to which the motorcycle struck against the wall of bridge and Bijender, Satbir and Jatin fell in the Canal. The driver ran away from there.

Satbir died at PGIMS Rohtak on 10.08.2012. A case FIR No.107 dated 20.07.2012 was also registered at Police Station Julana. A prayer was made for grant of compensation to the tune of ₹50 lacs to the claimant.

Respondent-driver (present appellant No.2) in the written statement denied the accident as alleged by the claimant and stated that the police has lodged a false FIR in collusion with the claimant. It is also stated by Lakhi Singh that he never worked as driver on the said tractor. Respondent-owner (present appellant No.1) filed separate written statement taking the same plea. Both the parties led evidence.

Claimant examined PW-1 Dr.Sanjiv Deswal, PW-2 ESI Shri Bhagwan, PW-3 Dr.Kuldeep Panchal. Claimant examined herself as PW-4, Rajesh Kumar, Salesman as PW-5 and Surender, eye witness as PW-6.

On the other hand, respondents (present appellants) examined themselves in the defence and closed their evidence.

Learned Tribunal, after going through the evidence, held that accident has taken place due to rash and negligent driving of offending tractor by Lakhi Singh driver and passed the impugned Award dated 01.04.2014 granting compensation as stated above.

Aggrieved from the above-said Award, present appeal has been filed.

At the time of arguments, learned counsel for the appellants argued that no such accident has taken place with the

offending vehicle and vehicle has been falsely planted in this case. He also argued that negligence has not been proved by the claimant by leading cogent evidence.

From the record, I find that PW-6 Surender, eye witness to the accident, has come to the witness box and deposed as per the case of the claimant. He has also deposed regarding FIR No.107 dated 20.07.2012 as the same was got registered by him. The claimant also examined PW-2 ESI Shri Bhagwan, who brought the FIR and he also proved the copy of PMR as Ex.P3. On the other hand, appellants have only examined themselves and tendered into evidence their affidavits denying the accident. Appellant Lakhi Singh stated that he never worked as driver of the offending vehicle and he is only a casual labourer and he has been falsely implicated.

Learned Tribunal after appreciating the statement of PW-6 Surender, eye witness, reached to the conclusion that there is nothing in the statement of PW-6, which may make his statement unreliable. The Court also held that testimony of PW-6 is cogent, convincing and trustworthy. The appellant-driver when appeared in the witness box admitted that he has got bail from the Court in the criminal case and he has also stated that police arrested him from the alleged tractor. The Tribunal relied upon the law laid down by this Court in **Lakhu Singh vs. Uday Singh, 2008 (1) RCR 805**, wherein it has been observed that facts of registration of FIR and trial of the accused in a criminal court are sufficient to arrive at a conclusion in the cases under the Motor Vehicles Act that the accident has taken place. The

Court after relying upon the evidence on record held that accident in question had taken place due to rash and negligent driving of tractor bearing registration No.PB-27-2050 being driven by Lakhi Singh driver.

Otherwise also, if there is false implication of the driver, then why the appellants have not made any complaint or representation to the higher authorities regarding their false implication. There is also nothing on the record as to why the appellants have been falsely implicated in the present case. The trial in the criminal case is going on. FIR has already been registered and appellant-driver Kuldeep Singh has already been charge-sheeted. The eye witness has supported the case of claimant and deposed that the accident took place due to rash and negligent driving of Lakhi Singh.

In these circumstances, I find that the findings given by the Tribunal are correct, as per law and do not require any interference from this Court and the same are upheld. No other point has been argued.

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

April 28, 2015
Vgulati

(INDERJIT SINGH)
JUDGE