

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2689 of 2015 (O&M)
Date of Decision: April 23, 2015

National Insurance Company Ltd., Bathinda-I

...Appellant

Versus

Manjit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.R.C.Gupta, Advocate
for the appellant.

INDERJIT SINGH, J.

Appellant National Insurance Company Ltd., Bathinda-I has filed this appeal against Manjit Kaur, Sukhpreet Kaur, Avtar Singh, Tejinder Singh (claimants), M/s Bee Kay Gas Service (owner) and Kuldeep Singh (driver) of offending truck, challenging the impugned Award dated 19.12.2014 passed by learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'Tribunal'), vide which ₹7,29,800/- along with interest at the rate of 6% per annum from the date of filing of the petition till realization of the awarded amount has been awarded to the claimants.

At the time of arguments, learned counsel for the appellant argued on one point that negligence has not been proved in this case as no FIR has been registered and only DDR has been registered and in the DDR, it has been stated that accident occurred without any

negligence.

The brief facts of the case are that Manjit Kaur, widow, Sukhpreet Kaur, daughter, Avtar Singh and Tejinder Singh sons of Buta Singh (deceased) filed claim petition against M/s Bee Kay Gas Service (owner), Kuldeep Singh (driver) and National Insurance Company Limited (Insurer) of the offending truck bearing registration No.PB-10CW-6197, under Section 166 of the Motor Vehicle Act.

It is stated in the claim petition that on 27.01.2013, deceased Buta Singh was working at a filling station M/s Bee Kay Filling Station at Bodalwala. At about 8.30 A.M., when he was busy carrying out his duty, offending truck was being reversed by respondent-driver Kuldeep Singh in rash and negligent manner and knocked down Buta Singh. As a result thereof, Buta Singh suffered grievous injuries on his person and was immediately taken to civil hospital Jagraon, where he was declared brought dead. Post-mortem examination of deceased was conducted. DDR No.10 was recorded by the brother of deceased namely Binder Singh. Further, the claimants averred that this accident was caused by rash and negligent driving of respondent Kuldeep Singh.

It is also stated in the claim petition that Buta Singh was 42 years of age and was cultivating agricultural land and also running a dairy farm from where he was earning ₹20,000/- per month. It is further stated that his salary was ₹4800/- per month as diesel machine operator with M/s Bee Kay Filling Station. Claimants claimed ₹15 lacs along with interest @ 24% per annum.

Upon notice, respondents-owner and driver have resisted this claim petition by filing their separate written reply. They did not deny the occurrence as alleged by the claimants regarding deceased having been knocked down by the offending truck which was being reversed by respondent-driver but they have qualified their above said admission that above-said occurrence had taken place all of a sudden without anybody being at fault. It is also stated that truck was insured with National Insurance Company Limited.

Insurance Company also took the plea that a false DDR has been registered by the police and other documents alleged to have been prepared by the hospital authorities are also false and fabricated.

The claimants examined CW-1 Manjit Kaur, CW-2 Binder Singh, eye witness, who got recorded the DDR and CW-3 Gupreet Singh, Cashier of M/s Bee Kay Filling Station.

On the other hand, respondents tendered into evidence insurance police Ex.R1, verification report of driving licence Ex.R2, copy of driving licence Ex.R3 and verification report of RC Ex.R4. No oral evidence has been led.

Learned Tribunal after appreciating the evidence, accepted the claim petition and awarded ₹7,29,800/- along with interest @ 6% per annum.

Aggrieved from the above-said award, appellant Insurance Company has filed the present appeal.

After going through the record, especially the findings

given by learned Tribunal, I find that learned Tribunal has specifically held that Buta Singh had died due to rash and negligent driving of driver Kuldeep Singh while reversing the truck. When the truck is reversed, it is the duty of the driver to take all the precautions that there should not be anybody behind the truck. The manner in which Buta Singh has died itself shows that truck driver was negligent while reversing the truck without taking appropriate precautions. The eye witness Binder Singh has been examined and he has deposed regarding rash and negligent driving of Kuldeep Singh while reversing the truck, due to which the accident occurred and Buta Singh died. In no way, it can be held that it was an accident without anybody's fault. The mere fact that in the DDR, it has been mentioned by Binder Singh that there was no fault of anybody, is no ground to infer that there was no fault of Kuldeep Singh driver in reversing the truck and causing the accident.

Furthermore, neither the driver nor any other person has come to the witness box to rebut the statement of the eye witness Binder Singh. The findings of the Tribunal that accident has occurred due to rash and negligent driving of Kuldeep Singh while reversing the truck, are correct, as per law and do not require any interference from this Court.

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

April 23, 2015
Vgulati

(INDERJIT SINGH)
JUDGE