

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

FAO No.582 of 2013

Date of decision: 4th February, 2015

Jagwinder Kaur and others

... Appellants

Versus

Karamjit Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Manish K. Singla, Advocate
for the appellants.

Respondent No.1 – ex parte.

Mr. Sanjeev Goyal, Advocate with
Mr. Rajbir Singh, Advocate
for respondent No.2.

Service of respondent No.3 – dispensed with.

FATEH DEEP SINGH, J.

Having failed to secure a favourable order the claimant/appellants are before this Court challenging an Award dated 01.11.2012 of the learned Motor Accident Claims Tribunal, Sangrur declining compensation to them for the motor vehicular accident resulting in death of Sukhwinder Singh.

Heard Mr. Manish Kumar Singla, Advocate for the claimant/appellants and Mr. Sanjeev Goyal, Advocate with Mr. Rajbir

Singh, Advocate for the insurer/respondent No.2 and perused the records.

It is stand of the claimants that on 21.09.2011 around 6.00 p.m. the deceased was going on his motorcycle make Caliber bearing registration No.PB-64-6838 from his village Jhaloor to village Raidharana and near the brick kiln of village Raidharana offending car make Ford Figo of black colour, bearing No.PB-13Y-5202 being driven rashly and negligently by its owner-cum-driver Karamjit Singh respondent hit the motorcycle leading to the consequences. It could not be controverted on behalf of the respondents that police report pertaining to this accident was registered at Police Station Lehra without loss of time. The learned Tribunal while adjudicating on issue No.1 has brushed aside the fact that the eye witness Jeet Singh AW2 had got recorded the FIR Ex.A1 though it has been rightly contended on behalf of the insurer that it is not a substantial piece of evidence however, being a document first in point of time certainly carries sanctity and corroborates the fact as to the presence of this witness at the time of accident. This witness has clearly stated in his examination in chief by way of Ex.AW2/A the identity of the vehicle, its driver-cum-owner and the manner of rash and negligent driving leading to the death of the deceased.

Though as has been pointed out the witness states that it was other persons who told him about the name of the driver of the car, certainly are matters which do not have any adverse bearing on the veracity and credibility of the witness. The post mortem report Ex.A2 corroborates this death in a motor vehicular accident and rather

nothing adverse has come in the cross-examination of the eye witness which could undermine the case of the claimants and above all, the suggestions put to this witness nowhere illustrates that they deny the accident but only deny the involvement of the vehicle and the driver. The driver is contesting the litigation and has failed to step into the witness box to rebut the case of the claimants and thus, taking an adverse inference in terms of Section 114 of the Indian Evidence Act, 1872 the same goes against him. Learned Tribunal has taken a pure lackadaisical approach about the police investigation and which can by no means uproot the case of the claimants and it is the evidence led before the Tribunal that has to be gone into and therefore, since the evidence of the eye witness has remained unrebutted and thus, findings on issue No.1 needs to be set aside holding that the accident resulting in the death of the deceased was on account of rash and negligent driving of car make Ford Figo of black colour, bearing registration No.PB-13Y-5202 by its owner-cum-driver.

The quantum of compensation has been hotly debated by the two sides. It is well proved on the record that the deceased was an agriculturist aged around 43 years owning 11 Kanals of land brought about by the revenue record Ex.A3 and keeping in view the background of the deceased and the claimants it can be safely assumed by some amount of guesswork and hypothetical assessment in the light of statement of claimant Jagwinder Kaur as AW1 that the deceased must be earning around ₹4,500 per month from his avocation. Keeping in view the number of dependants, 1/4 needs to be deducted from the earnings and therefore, in all likelihood the

deceased must be contributing ₹3,400 towards the running of the household and therefore, annual dependency comes to ₹40,800. In view of the relative ages of the claimants and that of the deceased, multiplier of 14 needs to be applied and thus, compensation comes to ₹5,71,200. The family has lost their bread earner, children their father a source of love and affection, wife her husband a life companion besides spending money on the last rites and ceremonies and under all these conventional heads a sum of ₹2,00,000 is awarded to the claimants. Thus, total compensation comes to ₹7,71,200 (rupees seven lacs seventy one thousand two hundred).

Besides this, the claimants shall also be entitled to interest @7.5% p.a. from the date of filing of the claim petition till realization. Interim compensation paid, if any, shall be adjusted. If any of the claimants is a minor his/her share shall be resorted to by way of FDR till he/she attains the age of majority.

The undisputed document Ex.R1 illustrates that the offending vehicle at the time of accident was owned by Karamjit Singh and insured with M/s Future General India Insurance Co. Ltd. and therefore, owner-cum-driver and the insurer are jointly and severally held liable to pay the amount of compensation.

No other argument has been raised.

With these discussions, the impugned Award is set aside by way of acceptance of the present appeal in those terms.

(FATEH DEEP SINGH)
JUDGE

February 4, 2015
rps