

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

**FAO No.3879 of 2015 (O&M)
Date of Decision: July 14, 2015**

Anil Kumar

.... Appellant

vs.

Smt. Nirmala and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Ms. Baljeet Kaur Bhullar, Advocate for the appellant.

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

Kuldip Singh J.(Oral)

CM-11993-CII-2015

There is delay of 7 days in filing the present appeal.

For the reasons mentioned in the application supported by an affidavit, delay of 7 days in filing the present appeal is condoned subject to all just exception.

Application stands disposed of.

FAO-3879-2015

Impugned in the present appeal is the order dated 02.01.2015 passed by the Motor Accident Claims Tribunal, Gurgaon (in short 'the Tribunal').

The brief facts of the case are that on 29.07.2013, Vikram Singh (now deceased) along with other *Kanwaris* was taking *Kanwar* from Haridwar on foot. When they reached in the area of P.S.

Daurala, District meerut, then a truck bearing registration No.HR-38K-3171 being driven by respondent No.1 (respondent No.6 herein) Hamid rashly and negligently came from Khatoli side and first hit a car bearing registration No.UP-14K-2986 and then hit Vikram Singh and other *Kanwarias*. As a result of which, Vikram Singh died at the spot whereas other *Kanwarias* received multiple injuries. On the basis of these facts, the wife and four minor daughters of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988.

The Tribunal came to the conclusion that the offending truck was being driven rashly and negligently and awarded compensation to the tune of ₹11,47,600/- along with interest @ 6% per annum from the date of filing of the claim petition till realization. The owner and driver of the offending truck were made liable to pay the compensation as the said truck was not insured at the time of accident.

I have heard learned counsel for the appellant and have also carefully gone through the case file.

Learned counsel for the appellant has argued that in this case the statement of Chand Kiran, PW4 was recorded before the Tribunal, who has stated that car bearing registration No.UP-14K-2986 was involved in the accident and he did not see the involvement of any truck in the accident.

A person may tell lies but not the facts. In this case, the FIR against the driver of the offending truck was registered. The

police carried out the investigation and found that the truck was involved in the accident. The challan was presented against the driver of the offending truck and he is facing trial in the Court of Addl. Chief Judicial Magistrate, Meerut. The Investigating Officer ASI Pritam Singh narrated about the sequence of the events. If one of the eye witnesses resile from his statement that does not mean that the case is false. In the criminal investigation site plan was prepared; damage to the vehicle was assessed and photographs were also taken. To rebut the evidence of the claimants, the driver and owner of the offending truck did not appear in the witness box to state that no accident took place as alleged. They did not even file any complaint before the higher authority that the truck in question and its driver have been falsely implicated in the said accident.

It being so, no fault can be found with the findings recorded by the Tribunal that the truck was being driven rashly and negligently by its driver Hamid.

Thus, I do not find any merit in the present appeal and the same is accordingly dismissed.

July 14, 2015
sarita

(KULDIP SINGH)
JUDGE