

In the High Court of Punjab and Haryana at Chandigarh

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CM No.14273-CII of 2015
and
F.A.O. No.4454 of 2015 (O&M)

.....

Date of decision:24.7.2015

Mewa Singh

.....Appellant

v.

Rajrani and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Navmohit Singh, Advocate for the appellant.

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Inderjit Singh, J.

CM No.14273-CII of 2015:

For the reasons mentioned in the civil miscellaneous application, the delay of 10 days in filing the appeal is condoned.

The civil miscellaneous application stands disposed of.

F.A.O. No.4454 of 2015 (O&M):

This appeal has been filed by Mewa Singh-appellant (driver-cum-owner) of offending vehicle combine bearing registration No.PB-04E-1282) against Smt. Rajrani, Sukiran, Suraj Kumar and Shanti Devi-respondents/claimants challenging the award dated 9.4.2015 passed by the Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the

Tribunal'), vide which the claim petition filed by Smt. Rajrani and others-claimants/petitioners has been accepted and an award of ₹10,78,776/- as compensation to be paid to the claimants along with interest @7.5% per annum has been passed.

The brief facts of the case are that claimants-Smt. Rajrani-wife, Sukiran, Suraj Kumar-minor children and Shanti Devi-mother of Suresh Kumar (since deceased) filed claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') against Mewa Singh-driver and owner of combine (offending vehicle) and Insurance Company for compensation on account of death of Suresh Kumar in a motor vehicular accident. As per the case of the petitioners/claimants, on the intervening night of 18/19.4.2013, Karambir along with Amir, Praveen, Nitin was going to Village Mundhal-Kalan to instal the tent and after installing the tent, they were coming back to Bhiwani in Pick-up Dala bearing registration No.HR-61-4120 at about 2.00 a.m., which was being driven by Suresh Kumar (since deceased) and when they reached near petrol-pump in the area of Talu, a combine (offending vehicle) being driven by its driver rashly and negligently and in a zig-zag manner struck its back portion with their vehicle and dragged their vehicle at a great distance, as a result of which, they sustained injuries and the driver of the offending vehicle fled away from the spot leaving behind the combine. Suresh Kumar succumbed to the injuries sustained by him in the accident.

The accident took place due to rash and negligent driving of respondent No.1 (appellant herein) while driving the combine.

On the statement of Karambir, FIR was registered on 19.4.2013 at Police Station Sadar, Bhiwani.

In the written statement, respondent No.1 stated that the alleged accident did not take place due to rash and negligent driving on the part of respondent No.1 while driving the offending combine, rather, it was the driver of Pick-up Dala, who drove his vehicle under the influence of liquor and at a very high speed and rash and negligent manner and struck his vehicle in the rear portion of the combine of respondent No.1.

After framing the issues and after the parties led the evidence, the Tribunal gave the finding on issue No.1 that the accident took place due to rash and negligent driving of respondent No.1 while driving the offending combine which led to the death of Suresh Kumar. This issue was decided in favour of the petitioners and against the respondents (appellant herein). Aggrieved from this finding on issue No.1, this appeal has been filed.

At the time of arguments, learned counsel for the appellant only argued that the appellant was not driving the offending combine rashly and negligently and the finding of the Tribunal is not as per evidence.

I have heard learned counsel for the appellant and have gone through the record.

A perusal of the record shows that the FIR has been got registered by Karambir, who was travelling in the Pick-up Dala and also sustained injuries. The presence of Karambir on the spot cannot be suspected. The FIR was registered on the same day. In the FIR also, it has

been mentioned that after the accident the combine driver dragged the Pick-up vehicle upto a long distance. This fact has also been deposed by Karambir while appearing as a witness before the Tribunal. There is no suggestion to this witness that the Pick-up vehicle was not dragged by the offending combine driver or the combine was stopped immediately. Even this fact has also not been deposed by respondent No.1 while appearing as RW-1. The plea of respondent No.1 that Suresh Kumar was in drunken condition was not supported by medical evidence i.e. post-mortem report. It is admitted by the learned counsel for the appellant at the time of arguments that no liquor was found as per the post-mortem report. A perusal of the findings of the Tribunal shows that these findings are as per evidence and law. No evidence has been misread by the Tribunal and the statement of RW-1 is not corroborated by any other evidence. Even if it is taken that respondent No.1-appellant was not driving the offending combine rashly and negligently, then why he has not made any complaint or representation to the higher authorities regarding his false implication. The challan has already been presented in the Court. The charge-sheet has been served against the appellant and the trial is going on. Therefore, this will also support the version of the claimants that after the investigation, the appellant was found driving the offending combine rashly and negligently. It is further in the evidence that the appellant was driving the combine in a zig-zag manner.

From the above discussion, I find that the findings given by the Tribunal are correct and as per law and do not require any interference by

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this Court and the same are upheld. Nothing has been argued on the quantum of compensation.

Consequently, I do not find any merit in the appeal and the same is dismissed.

July 24, 2015.

(Inderjit Singh)
Judge

hsp