

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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**FAO No. 8103 of 2015 (O&M)**

Date of decision : December 4, 2015

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ICICI Lombard General Insurance Company Ltd., Chandigarh

.....Appellant

Versus

Satnam Singh and others

.....Respondents

\* \* \* \* \*

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

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Present: Mr. Amrinder Singh Sidhu, Advocate for the appellant.

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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?*

**RITU BAHRI, J**

Appellant-Insurance Company has filed this appeal against the award dated 4.8.2015 passed by the Motor Accident Claims Tribunal, District Fatehgarh Sahib (hereinafter referred to as 'the Tribunal') in **claim petition no.20 of 1.9.2014** filed under Section 166 of the Motor Vehicles Act, whereby a total compensation to the tune of Rs.16,21,000/- has been awarded to the claimants on account of the death of Darshan Singh in a motor vehicular accident on 30.9.2009.

The brief facts of the case are that on 30.9.2009, Darshan

Singh was coming from Mandi Gobindgarh towards his village on his

bicycle on left side of his hand of the road. At about 10:00 a.m, when he reached near divider of the Focal point ahead to village Ajnali and was to go to other side of GT road from the turning point of Focal Point then bus no. HR-67-3437 coming in rash and negligent manner struck against the bicycle driven by Darshan Singh and as a result of which, Darshan Singh fell down on the GT road and suffered multiple grievous injuries on his body and head. The driver of the bus stopped the bus and disclosed his identification and also shifted Darshan Singh by his bus to Civil Hospital, Mandi Gobindgarh but due to serious condition, Darshan Singh was referred to DMC, Ludhiana. The driver of the bus took Darshan Singh to DMC, Ludhiana and the doctors of the DMC Ludhiana asked claimant no.1 to deposit sum of Rs.5,00,000/- for treatment of Darshan Singh. As the family of Darshan Singh was unable to deposit the amount, he was brought to Civil Hospital, Mandi Gobindgarh by the same bus but on the way succumbed to his injuries. With regard to the accident, a criminal case bearing FIR No. 211 dated 30.9.2009 was registered under Sections 279, 427 304-A IPC as per version of Lal Singh.

On account of the death of Darshan Singh, his son Satnam Singh and daughter Ravinder Kaur filed claim petition under Section 166 of the Motor Vehicles Act, 1988. From the pleadings of the parties, following issues were framed by the Tribunal:

- 1. Whether the respondent no.2 caused the death of Darshan Singh by driving his bus no. HR-67-3437 in a rash and negligent*

*manner on 30.9.2009 at about 10:00 a.m in the area of Village Ajnali, divider of Focal point at main GT road Mandi Gobindgarh? OPP.*

*2. Whether the claim petition is not maintainable? OPR.*

*3. Whether the claimants are entitled for compensation as prayed for from the respondents? OPP.*

*4. Relief.*

The Tribunal has returned a finding on issues no.1 & 2 in favour of the claimants that the accident took place on account of rash and negligent driving of Satvir Singh, driver of the offending vehicle. Copy of the charge sheet dated 19.4.2010 Ex. C-4 which was served upon Satvir Singh in case FIR No.211 of 1.10.2009 under Sections 279, 427, 304 IPC registered against him in the Police Station Gobindgarh and copy Ex. C-5 of the challan under Section 173 of Cr.P.C. Ex. R-1 copy of driving licence of Satvir Singh, Ex. R-2 copy of registration certificate of the bus, Ex.R-3 copy of Insurance cover note, Ex. R-4, copy of route permit were placed on record by the driver of the offending vehicle. Ex.R-5 copy of judgment dated 17.9.2014 passed in Police Challan no.125 of 26.10.2009 whereby driver of the offending vehicle-Satvir Singh had been acquitted of the charges framed against him in FIR No.211 of 1.10.2009 registered

under Sections 279, 427, 304 IPC was also placed on record. Statement of Lal Singh Ex. R-6 who was the complainant in the FIR Ex. C-1 and Ex. R-7 statement of Satnam Singh were also placed on record. Complainant Lal Singh at whose statement FIR Ex. C-1 was registered, while appearing as PW-3 in criminal case of FIR before the trial Court admitted that the accident of his brother had taken place with Pepsu Roadways bus but could not tell the colour and number of the same. This witness was not examined by the claimants before the Tribunal and the respondents in the claim petition took the plea that there was no evidence with regard to rash and negligent driving and involvement of the bus in question in the accident. This aspect has been considered by the Tribunal by making reference to the deposition of respondent no.2(in claim petition)-owner of the bus. He admitted the occurrence by referring that Satvir Singh was deputed on the bus No. HR-67-3437 to drive the same on route leading to Dera Beas and was not at any fault because respondent no.1 when reached near Mandi Gobindgarh at that time suddenly one cyclist with gas cylinder on its carrier came in front of the bus and Satvir Singh saved the said person and stopped his bus on pedestrian lane but the cyclist did not struck against the bus but went imbalanced due to gas cylinder carried on cycle and fell down on the road and also received injuries. Moreover Satvir Singh had valid driving licence no. 01/HR/DTO/12108/09 dated 16.11.04 valid up to 15.11.2007 and renewed up to 15.11.2010 as the copy of the same had been brought on record as Ex. R-1. He was acquitted

in the criminal trial only on account of failing to prove the ingredients of the offence punishable under Sections 279, 304 IPC under which he had been charge sheeted. The Insurance Company before the Tribunal could not make out a case even after cross-examining the complainant that it was Darshan Singh deceased who was negligent when the bus hit his cycle and resulted into his death. No evidence was adduced by the Insurance Company to show that there was collusion of the claimants with respondents no. 1 & 2 (in the claim petition). Hence a finding on issues no. 1 & 2 has been given in favour of the claimants that the deceased died on account of rash and negligent driving of driver of the offending vehicle.

The claim petition was partly allowed and the claimants were found entitled to a total compensation of **Rs.16,21,000/-**. The compensation was assessed by the Tribunal by taking the monthly income of the deceased as Rs.13,000/- per month. 1/4<sup>th</sup> deduction was made towards his personal expenses. Hence annual dependency of the claimant was arrived at (Rs.9750x12) =Rs.1,17,000/-. The age of the deceased at the time of accident was taken to be 47 years and hence a multiplier of 13 was applied. Hence the claimants were found entitled to the extent of Rs.15,21,000/-. Besides this amount, an amount of Rs.50,000/- on account of loss of love and affection of claimants and Rs.50,000/- on account of funeral expenses was awarded. Thus the claimants were found entitled to a total compensation of **Rs.16,21,000/-**.

Counsel for the appellant argued that there was

contradiction in the statement made by Lal Singh while deposing in the criminal proceedings in the trial Court because eye witness of the accident PW-2 Lal Singh has categorically stated in his cross-examination that the accident took place with bus of Punjab Roadway whereas as per the prosecution story the accident took place with the bus of Haryana Roadways.

I have heard the counsel for the parties and gone through the records of the case file. Minor contradictions in the deposition of Lal Singh, eye witness of the accident cannot be made a ground to interfere in the well reasoned findings of the Tribunal recorded on issues no. 1 & 2. There is no infirmity or illegality in the judgment of the Tribunal which requires interference of this Court.

In the facts and circumstances of the present case, the present appeal is hereby dismissed.

December 04, 2015  
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**( RITU BAHRI )**  
**JUDGE**