

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

**FAO No.1065 of 1993 (O&M)
Date of decision: 10.03.2016**

Ram Partap and another

....Appellants

Versus

Bimla and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vinod Chaudhary, Advocate,
for the appellants.

Mr. Vijay Kumar, Advocate,
for Mr. Sanjay Mittal, Advocate,
for respondent Nos. 1 to 4 and 6.

RITU BAHRI J. (Oral)

Ram Partap, driver and the Oriental Insurance Company Ltd.-
appellants have come up in appeal against the awarded dated 10.03.1993
passed by the Motor Accident Claims Tribunal, Narnaul (hereinafter
referred to as 'the Tribunal'), whereby compensation of Rs.2,56,000/- has
been awarded in favour of the claimants-respondent Nos. 1 to 6 on account
of death of Suresh Kumar in a motor vehicular accident which took place on
07.04.1991. Respondent No. 1 is widow, respondent Nos.2 to 4 are
daughters and respondent Nos.5 and 6 are parents of deceased Suresh
Kumar.

Brief facts of the case are that on 07.04.1991, at about 2.30
P.M., deceased-Suresh Kumar was going from Mohindergarh to his village
Basania. When he reached near the tubewell of Sultan of village Khoda, a

scooter bearing registration No. HN-35-0913, being driven by Ram Partap (appellant No.1 herein) in a rash and negligent manner came and struck against the Suresh Kumar, as a result of which, he fell down on the ground and died. After the accident, the scooterist and the pillion rider took away the scooter. Consequently, the claimants (respondent Nos. 1 to 6 herein) filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that Suresh Kumar died due to a roadside accident which took place on account of rash and negligent driving of offending scooter by Ram Partap-appellant No.1 and thus, returned the finding on Issue No.1 in favour of the claimants-respondent Nos. 1 to 6. This finding is rightly based on the deposition of Shamsheer Singh (PW-2) and Rajinder Singh (PW-3) who were eye witnesses of the accident. While assessing compensation, the income of deceased has been taken as Rs.2000/- per month, out of which, 1/3rd was deducted towards personal expenses of deceased. The total annual dependency came to Rs.16,000/-. Age of the deceased was 26 years at the time of accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.2,56,000/-. Feeling dissatisfied with the impugned award, the claimant-Insurance Company has preferred the present appeal.

I have heard learned counsel for the appellant and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. As per deposition of Shamsheer Singh (PW-2), on 07.04.1991 at about 2.30 P.M., when he was going from Mohindergarh to village Bawania, at that time,

Suresh Kumar, who was his co-villager, was also going from Mohindergarh to village Bawania on his scooter bearing No.RJ-463. In the meantime, a scooter bearing registration No. HR-35-0913 being driven by Ram Partap at a very fast speed came from behind and while overtaking the scooter of Suresh Kumar, he struck the side of his scooter with the same, as a result of which, he had fallen down. Zile Singh, resident of village Khera was also present there. They tried to stop the occupants of offending scooter, but Ram Partap drove away the same towards village Bawania. A number of persons gathered there along with brother of deceased namely Rajinder Singh. He took his brother in a hospital at Mohindergarh. Bimla (PW-1) deposed that deceased was her husband and they had three children. She further deposed that deceased-Suresh Kumar was employed in the Army and was getting salary of Rs.2000/- per month.

Ram Partap-driver of the offending scooter appeared as RW-1 and stated that on 07.04.1991, when he was going from Mohindergarh to village Mandhan via Bawania on his scooter No.HR-35-0913 and crossed village Khera, he found that one person was lying near a water reservoir, which was existing by the side of the road. One scooter was also lying there. One person named as Zile Singh was standing there, who told him that a person had struck his scooter against the water reservoir and had fallen down. Thereafter, he (Ram Partap) proceeded towards village Bawania. He further deposed that no accident had taken place with his scooter. Amrit Lal (RW-3) had corroborated the testimony of Ram Partap-driver.

The Tribunal has rejected the version of Ram Partap (RW-1) and Amrit Lal (RW-3) and held that deceased-Suresh Kumar had died on

account of rash and negligent driving of Ram Partap-appellant (respondent No.1 in the clam petition).

Learned counsel for the appellant has argued that apart from the oral testimony of the witnesses, there is no evidence to return a finding that the accident had taken place on account of rash and negligent driving of scooter by Ram Partap-appellant. He further argued that an attempt was made to falsely implicate him in the present case. No criminal complaint was made with the police. The deceased, at the time of accident, was driving his scooter rashly and negligently at a very fast speed and struck the same against water tank, which resulted into his death.

Before the Tribunal, Insurance Company-appellant No.2 had filed its written statement, stating therein that a Priya Scooter was insured for the period from 09.07.1989 to 08.07.1990. However, the Tribunal has returned a finding on issues No.6 and 7 that Ex.RB was the copy of the insurance policy, which was proved on record by driver and owner of the offending vehicle. Therefore, it was held that the offending scooter was insured with respondent No.3 (appellant No.2 herein). Ram Partap-driver had produced his driving licence as Ex.RA, which was valid at the time of the accident.

A perusal of the impugned Award shows that a per Ex.RB, the offending scooter was duly insured with the Oriental Insurance Company-appellant No.2. The liability to pay compensation is joint and several. Furthermore, both the eye witnesses had no enmity against the driver-appellant, which could provoke them to depose against him.

Accordingly, after going through the impugned Award, no illegality, much less perversity has been found therein warranting

interference by this Court. The Tribunal has assessed the compensation after appreciating evidence in the right perspective.

Resultantly, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

10.03.2016
ajp