

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1661 of 1994 (O&M)
Date of Decision : 19.09.2016

Mohinder Kaur and others

....Appellants

Versus

Randhir Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. K.S. Chahal, Advocate
for appellants.

Mr. Rishav Jain, Advocate
for Mr. Arihant Jain, Advocate
for respondent no. 1.

Mr. Navin Kapur, Advocate
for respondent no. 3.

Mr. Vijay Pratap Singh, Advocate
for Mr. Ajay Pal, Advocate
for respondents no. 5 and 6.

Surinder Gupta, J.

This is appeal against award dated 18.04.1994 passed by Motor Accident Claims Tribunal, Sangrur (later referred to as 'the Tribunal'), dismissing the claim petition filed by claimants-appellants seeking compensation for death of Gurnam Singh (later referred to as 'the deceased'), husband of claimant-appellant no. 1 and father of remaining claimants-appellants, in a motor vehicle accident with car bearing registration no. PUL-6833 (later referred to as 'the offending vehicle'), due to its rash and negligent driving by respondent no. 1-Randhir Singh.

2. The Tribunal discarded statements of PW-2 Gurdial Singh and AW-3 Amar Singh, the alleged eye-witnesses of the accident in view of the version regarding accident in FIR, which was recorded a day after the

accident on the statement of Shingara Singh son of the deceased.

3. Claimants described the incident in para 22 of the claim petition, which reads as follows:-

“The deceased Gurnam Singh went to see his relative at village Rurgarh and to attend the Bhog ceremony on 08.12.1988 and in the evening at about 7.00 p.m., when he was returning to his village and when he reached near the fields of Nand Singh and Darshan Singh at about 07.00 p.m., the respondent no. 1 Randhir Singh came there while he was driving car no. PUL-6833 at a very high speed, very rashly and negligently and he hit the deceased there and deceased fell down and the respondent no. 1 after hitting the deceased Gurnam Singh ran away. The accident took place due to rash and negligent driving of respondent no. 1, as a result of which the deceased died at the spot. The respondent no. 1 confessed his guilt before Sarpanch Baldev Singh and member Panchayat Bant Singh. Ultimately, both the above said Sarpanch and member Panchayat, produced Sh. Randhir Singh, respondent no. 1 before the Police of P.S. Malerkotla. The respondent no. 1 is responsible for the loss caused to the claimants due to death of Gurnam Singh in the said accident.”

4. The accident took place on 08.12.1988. The matter was reported to the police on 09.12.1988 vide DDR No. 20 at 02.15 p.m. got recorded by Shingara Singh son of the deceased. In the FIR complainant gave version as follows:-

“On 08.12.1988, his father had gone to his job but did not return. On the next day i.e. 09.12.1988, he came to know in the village that a person was lying dead in the area of village Hathan. He alongwith sarpanch of the village and panch Chand Singh reached the spot and found his father lying dead. Left leg of his father was lying broken and there were bruises on his face as well. It appeared that the accident had taken

place with some motorcycle or tractor. The person who caused the accident had sped away from the spot in his vehicle. The matter was thereafter reported to the police.”

5. Claimants examined two eye-witnesses of the occurrence, namely, PW-2 Gurdial Singh and AW-3 Amar Singh, both are resident of their village. Shingara Singh, author of the FIR and son of the deceased did not turn up to depose. PW-2 Gurdial Singh has stated that the accident was caused by respondent no. 1, who was driving his car at a very fast speed. The door of his car opened and hit Gurnam Singh, who was going on his cycle and fell on road and died at the spot. In the meanwhile, Amar Singh also came there. He asked Amar Singh to give information at the house of Gurnam Singh and left the spot. AW-3 Amar Singh while corroborating the statement of PW-2 Gurdial Singh has stated that after the accident he went to house of Gurnam Singh, where he narrated the incident to wife of Gurnam Singh and then went to his house as he was not feeling well.

6. Statement of Amar Singh, if believed, proves that the information regarding accident was given to family of the deceased immediately after the accident. In such an eventuality, family of the deceased would have rushed to the spot to take care of the deceased but strangely enough, as per version in the FIR, which was recorded on the statement of none else than son of the deceased, family of the deceased came to know on the next day about a dead body lying on *kacha* portion of road in the area of village Hathan. It was thereafter that claimants with *sarpanch* Veer Khan and *panch* Chand Singh proceeded to that site. This shows that statement given by Gurdial Singh and Amar Singh is not credible. Both are residents of village of the deceased and claimants. It cannot be believed that after the accident they came to village and nobody in the village till

10.00/11.00 a.m. on the next day i.e. after 16 to 17 hours came to know about the accident and demise of the deceased in that accident. In these circumstances, the Tribunal has rightly discarded statements of PW-2 Gurdial Singh and AW-3 Amar Singh terming the same as unreliable with observation that they are not eye-witnesses of the occurrence. Regarding involvement of the offending vehicle in the accident no corroborating evidence was produced.

7. Learned counsel for appellants could not reconcile the discrepancy regarding incident as described in the FIR and in statements of PW-2 Gurdial Singh and AW-3 Amar Singh or could refer to any corroborating evidence to make out that the offending vehicle was involved in the accident and the accident was caused due to rash and negligent driving of the offending vehicle by respondent no. 1. Though, claimants have taken the plea in claim petition that respondent no. 1 has confessed his guilt before *sarpanch* of the village but no evidence in this regard was produced and *sarpanch* of the village was not examined to state this fact.

8. As a sequel of my discussion above, I find no legal or factual infirmity in the judgment passed by the Tribunal calling for any interference. This appeal has no merit and the same is dismissed.

September 19, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No