

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

(1)

**FAO No.3407 of 2014 (O&M)
Date of decision : 20.05.2016**

Kuldeep Singh and another

.....Appellants

Versus

Chamkaur Singh and another

...Respondents

(2)

**FAO No.2210 of 2016 (O&M)
Date of decision : 20.05.2016**

Chamkaur Singh

.....Appellant

Versus

Kuldeep Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. Sardavinder Goyal, Advocate for appellants
in FAO No.3407 of 2014 and for respondents No.1 & 2
in FAO No.2210 of 2016.

Mr. Shyam Lal Bhalla, Advocate for respondent No.1
in FAO No.3407 of 2014 and for appellant
in FAO No.2210 of 2016.

Mr. Vinod Gupta, Advocate for respondent No.2
in FAO No.3407 of 2014 and for respondent No.3
in FAO No.2210 of 2016.

DARSHAN SINGH, J.

This judgment shall dispose of both the appeals referred above which have arisen out of the same award dated 21.10.2013 passed by learned Motor Accidents Claims Tribunal, Patiala (hereinafter called the 'Tribunal'), vide which Chamkaur Singh, the appellant-claimant of FAO No.2210 of 2016 has been awarded compensation to the tune of Rs.2,65,000/- along with interest at the rate of 7.5% per annum on account of death of his father Jit Singh alias Ranjit Singh son of Harchand Singh in the motor vehicular accident which took place on 22.11.2009.

2. For the sake of convenience, the status of the parties is being mentioned as in the original claim petition.

3. FAO No.3407 of 2014 has been filed by the driver and owner of car bearing registration No.PB-11AM-9755 to assail the award.

4. FAO No.2210 of 2016 has been filed by the claimant for enhancement of the amount of compensation.

5. Learned counsel for the owner and driver of the car in question contended that learned Tribunal has granted compensation without ascertaining that Jit Singh alias Ranjit Singh has died as a result of injuries received in this accident. He contended that the accident is alleged to have taken place on 21.11.2009 but Jit Singh alias Ranjit Singh has died on 18.12.2010 *i.e.* after more than one year from the date of accident. He contended that no medical evidence has been placed on record by the claimant to show as to what type of injuries were suffered by deceased Jit

Singh @ Ranjit Singh. No postmortem examination has been got conducted to show that the cause of death was the injuries suffered in the accident. No doctor has been examined. The deceased has remained admitted in the hospital only for 2/3 days. Thus, he contended that it is not established that Jit Singh alias Ranjit Singh has died as a result of injuries received in this accident. Hence, the claimant is not entitled for any compensation.

6. Mr, Vinod Gupta, Advocate learned counsel for the respondent-Insurance Company has also supported the contentions raised by learned counsel for the appellants-driver and the owner.

7. On the other hand, Mr. Shyam Lal Bhalla, Advocate, learned counsel for the claimant contended that Kuldeep Singh the driver of the vehicle has admitted in the cross-examination that Jit Singh has died as a result of injuries received in the accident and he is also facing the trial for causing his death. He further contended that there was no other reason for the death of Jit Singh alias Ranjit Singh, the father of the claimant. Thus, he contended that the cause of death of Jit Singh alias Ranjit Singh was not disputed. Thus, the claimant has rightly been held entitled for grant of compensation.

8. He further contended that only sum of Rs.2,65,000/- has been awarded as compensation to the claimant, which is highly inadequate. The learned Tribunal has not properly taken into consideration the income of the deceased and other non-conventional heads. So, the claimant is entitled for enhancement of the amount of compensation.

9. I have duly considered the aforesaid contentions.

10. In order to seek the compensation, it was incumbent upon the claimant to establish that Jit Singh alias Ranjit Singh, the father of claimant Chamkaur Singh has died as a result of the injuries received in this motor vehicular accident, which took place on 22.11.2009. As per Section 166(1)(c) of the Motor Vehicles Act, 1988 (for short the 'Act'), the legal representatives of the deceased are entitled for grant of compensation where death has resulted from the accident. Thus, in order to succeed, the claimant was required to establish that Jit Singh alias Ranjit Singh has died as a result of the injuries received by him in the accident which took place on 22.11.2009.

11. But the case of the claimant is totally lacking on this aspect. Claimant Chamkaur Singh has himself stepped into the witness box as CW1. In his oral statement he stated that on 22.11.2009, Jit Singh along with Raghbir Singh, Kesar Singh, Darshan Singh, Ranjit Singh son of Ram Singh and Ranjit Singh son of Gurmel Singh had gone to Malout for attending the marriage of Jagdeep Singh and on way back they met with an accident. Ajit Singh alias Ranjit Singh has remained admitted as indoor patient in Civil Hospital, Barnala and Akal Hospital, Patiala. He remained unwell and ultimately died due to the injuries on 18.12.2010. CW2 Raghbir Singh is the second witness examined by the claimant. He deposed about the mode of accident and also corroborated the version of claimant Chamkaur Singh with respect to Jit Singh alias Ranjit Singh suffering the

injuries in the accident and his ultimate death on 18.12.2010. In all, this is the evidence adduced by the claimant. The claimant has produced only oral evidence with respect to the alleged injuries and cause of death of Ajit Singh alias Ranjit Singh.

12. It is the admitted case of the claimant that the deceased has remained admitted in Civil Hospital, Barnala and Akal Hospital, Patiala but no record of those hospitals has been produced. Even no medico legal report of the deceased Jit Singh alias Ranjit Singh has been brought on record to show as to whether he suffered any injury in this accident, if so, what were those injuries? Claimant Chamkaur Singh has admitted in the cross-examination that his father remained admitted in Akal Hospital Patiala for 2/3 days and one day at Barnala. He further stated that he has no medical record of Akal Hospital but the record pertaining to Civil Hospital, Barnala is lying with him. He further admitted that his father did not remain admitted in any hospital before his death and he died in the house. This accident has taken place on 22.11.2009. Jit Singh alias Ranjit Singh has died on 18.12.2010 *i.e.* after about 13 months of the accident. As per the admissions of the claimant in the cross-examination the deceased remained admitted in Akal Hospital, Patiala and Civil Hospital, Barnala only for few days *i.e.* 4 & 5 days and after that, he never remained admitted in any hospital. He was at the house on the day when he died. No postmortem examination was got conducted on the dead body of Jit Singh alias Ranjit Singh in order to show that the cause of his death was the injuries suffered

by him in the accident which took place on 22.11.2009. Not an iota of medical evidence with respect to the injuries and cause of death of deceased Jit Singh alias Ranjit Singh has been brought on record.

13. Learned Tribunal has mentioned that Kuldeep Singh, the driver of the vehicle has admitted in the cross-examination that he is facing trial for the offence under Section 304-A of the Indian Penal Code, 1860 (for short 'IPC') for causing death of Jit Singh but this fact is not borne out from the record of the case. Kuldeep Singh the driver of the car has appeared as RW1. In the cross-examination though he has admitted that he is facing trial at Barnala under Section 304-A IPC for causing this accident, but he has categorically stated that he does not know whether Jit Singh also suffered injuries in the accident and remained admitted in Civil Hospital, Barnala. He further stated that he does not know about Jit Singh having remaining admitted at Patiala. He further stated that he does not know whether Jit Singh died due to injuries caused in the accident. So, there is no admission of Kuldeep Singh the driver of the vehicle that Jit Singh alias Ranjit Singh has died as a result of injuries received in this accident. Mere this fact that Kuldeep Singh the driver of the vehicle is facing the trial under Section 304-A IPC will not establish the cause of death of Jit Singh alias Ranjit Singh.

14. Due to long gap of about 13 months in the date of accident and date of death of Jit Singh alias Ranjit Singh the claimant was required to lead cogent and convincing medical evidence to establish that the injuries

suffered by Jit Singh alias Ranjit Singh in the accident dated 22.11.2009 were the cause of his death. But no such evidence has been adduced by the claimant. Even the learned Tribunal has not recorded any categorical findings with respect to the cause of death of Jit Singh alias Ranjit Singh in the impugned award. Thus, claimant has failed to prove that deceased Jit Singh alias Ranjit Singh died as a result of injuries received in this accident. Therefore, claimant Chamkaur Singh was not entitled for grant of compensation and the findings recorded by learned Tribunal are erroneous and based on no evidence, which cannot be sustained in the eye of law.

15. Consequently, keeping in view my aforesaid discussion, the FAO-3407 of 2014 filed by the owner and driver is hereby allowed. The award dated 21.10.2103 passed by learned Tribunal is hereby set aside. The claim petition filed by claimant Chamkaur Singh stands dismissed. FAO No.2210 of 2016 filed by claimant Chamkaur Singh is without any merits and the same is hereby dismissed.

20.05.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**