

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

FAO No.5009 of 2016 (O&M)

Date of decision : 28.11.2016

State of Punjab and another

.....Appellants

Versus

Smt. Anu and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Ajaib Singh, Addl. A.G. Punjab for appellants.

DARSHAN SINGH, J.

CM-17293-CII-2016

There is delay of 67 days in filing the present appeal. The appellants have filed an application under Section 5 of the Limitation Act for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay of 67 days in filing the present appeal is hereby condoned.

Main Appeal

The present appeal has been preferred against the award dated 05.02.2016, passed by learned Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter called the "Tribunal"), vide which respondents No.1 & 2 - claimants have been awarded compensation to the tune of

₹ 9,97,000/- on account of the death of Shubham Saini alias Shivi Saini in the motor vehicular accident which took place on 16.04.2015.

2. The present appeal has been preferred by the appellants-owners of the offending vehicle (respondents No.2 & 3 in the claim petition) to assail the award.

3. I have heard learned counsel for the appellants and have gone through the paper-book meticulously.

4. Initiating the arguments, learned Additional Advocate General for the appellants contended that the bus owned by the appellants was not involved in this accident. He contended that in fact deceased himself was the sole author of this accident. He was driving the motorcycle bearing registration No.PB-07AF-6961 in a rash and negligent manner. He contended that there was Police Check Post at the place of accident. When the police gave the signal to the deceased to stop the motorcycle for checking, the deceased did not stop and tried to hurriedly cross the Check Post, due to which the motorcycle of the deceased struck against a stray animal. This version of the accident is fully supported from the statement of RW-1 Daljit Singh, the driver of the bus. So, he contended that the bus owned by the appellants had not collided with the motorcycle being driven by the deceased. Thus, he contended that respondents No.1 & 2 - claimants have not been able to establish the involvement of the vehicle and negligence on the part of respondent No.3.

5. I have duly considered the aforesaid contentions.

6. As per the case of the claimants, on 16.04.2015 at about

06:30 p.m. deceased Shubham Saini alias Shivi Saini along with his friend Mohit Suri was proceeded on motorcycle bearing registration No.PB-07AF-6961 towards Jassa Singh Ramgarhia Chowk, Hoshiarpur. In the meanwhile, one Punjab Roadways bus bearing registration No.PH-07X-8209 came at a very high speed and the driver of the bus, without blowing any horn, struck the bus against the motorcycle being driven by Mohit Suri. As a result of which, Shubham Saini alias Shivi Saini and Mohit Suri fell down and suffered injuries. Later on, Shubham Saini succumbed to the injuries on the way to the hospital. The appellants contested the claim petition on the grounds *inter alia* that deceased Shubham Saini was himself driving the motorcycle in a rash and negligent manner. There was a Police Check Post at the place where the accident has taken place. When the police gave a signal to stop the motorcycle, they did not stop the motorcycle and tried to hurriedly cross the Check Post, due to which the motorcycle struck against a stray animal.

7. The respondents-claimants have examined PW-2 Love Saini the witness of the occurrence, who has fully corroborated the version of the claimants and has categorically deposed that respondent No.1 was driving the bus at a very high speed, in a rash and negligent manner and he without blowing any horn, hit the motorcycle with full force, due to which Shubham Saini fell down and sustained the injuries. The version of PW-2 Love Saini is also corroborated from the factum that criminal case for causing this accident has also been registered against the driver of the bus *i.e.* respondent No.3.

8. The appellants have examined Daljit Singh the driver of the bus as RW-1 and he has also corroborated the manner of the accident pleaded in the written statement. He has deposed that he was driving the bus at a normal speed and when he reached near Jassa Singh Ramgarhia Chowk, two persons came on the motorcycle driving in a rash and negligent manner and struck the motorcycle against a stray animal. The motorcycle was being driven hurriedly as they did not stop despite the signal given by the police to stop at the Check Post. There is no corroboration to the testimony of RW-1 Daljit Singh the driver of the bus. As per the case of the appellants, the police personnel present at the Check Post have given the signal to stop the motorcycle. In order to avoid that signal, the motorcycle was being driven at fast speed, resultantly it hit with a stray animal. The appellants are totally silent about the name and rank of the police officials, who had given the signal to stop the motorcycle. He was the best witness to depose in corroboration to the case of the appellants, but what to talk of his examination as a witness even his particulars have not been disclosed.

9. The bus involved in the present accident is a government bus owned by the Punjab Roadways. It is not believable that a government vehicle can be falsely implicated at the instance of a private person in the accident. There is no material on record to show that respondent No.3 Daljit Singh the driver of the bus had made any representation to his higher authorities or to the senior police officers with respect to his false implication in the criminal case. He has categorically admitted that criminal case was registered against him on the basis of statement made by PW-2

Love Saini for causing this accident.

10. Thus, in these circumstances the uncorroborated testimony of RW-1 Daljit Singh the driver of the bus cannot be relied upon to rebut the evidence brought on record by the claimants. There is no escape from the conclusion on the basis of evidence available on record that respondent No.3 Daljit Singh the driver of the bus was rash and negligent for causing this accident. Hence, the findings of the learned Tribunal on issue No.1 regarding the negligence requires no interference.

11. No other point was raised before this Court at the time of arguments.

12. Resultantly, the present appeal being without any merits, is hereby dismissed.

28.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No