

Sr. No. 201

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

FAO No. 1144 of 1992

Decided on: 11.09.2017

Attar Singh

.....Appellant

versus

Jagdish Chander and others

.....Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

**Present: Mr. B.R.Gupta, Advocate
for the appellant.**

Rajbir Sehrawat, J.

This is an appeal filed by the claimant challenging the award passed by the Motor Accidents Claims Tribunal, Hissar (for short, 'the Tribunal') whereby the claim petition was dismissed holding the appellant to be not entitled to any compensation.

The claim raised by the appellant in the claim petition was that on 07.04.1991 at about 11:15 am Smt. Maya Kaur was standing on the bus stand of village Balawas to board a bus to go to Tosham. She wrongly boarded the Bus No. HRT-5376, belonging to the Haryana Roadways Hisar depot, which was going from Hansi to Siwani. It was driven by respondent No.1. It was further claimed in the claim petition that after some time of the boarding of the bus, she came to know that the bus was not going to Tosham. Respondent No. 1 scolded her and asked her to get down. When she was alighting the bus from the front window the driver of the bus started it and Smt. Maya Kaur fell down. The rear wheel of the bus passed over her body. She received grievous injuries. Respondent No. 1 took her to the

Civil Hospital, Tosham but she succumbed to the injuries on the way to the hospital. One Rani Singh Sarpanch was claimed to be the eye witness of the accident in question. The claimant had claimed to be the adopted son of Smt. Maya Kaur. In the evidence the claimant examined himself as witness as PW-3 and examined the alleged eye witness Rani Singh as PW-1. The reliance was placed by the appellant on Exhibit P-1 which was claimed to be the Will executed by Neki Ram, the husband of Smt. Maya Kaur, in favour of the appellant.

While appreciating the evidence, the Tribunal held that the claimant/appellant herein has not led any evidence whatsoever to prove the fact that he was the adopted son of Smt. Maya Kaur. The Tribunal has recorded a finding that even while appearing as a witness, the claimant has not stated as a witness before the Court, that he was the adopted son of the said Smt. Maya Kaur. Still further it has been recorded by the Tribunal that the claimant has not even claimed in his deposition as a witness that he was residing with the deceased Smt. Maya Kaur or that he performed last rites of the deceased Smt. Maya Kaur. Therefore, the Tribunal held that the claimant has failed to prove that he was the adopted son of Smt. Maya Kaur. Regarding the Will in question; it was held by the Tribunal that the respondents were not party to the proceedings in the probate proceedings regarding the Will. Therefore, the same is not binding upon the respondents. Still further it was recorded that even Smt. Maya Kaur was ex parte in those proceedings.

After hearing learned counsel for the appellant, this Court finds that there is no illegality, irregularity or perversity in the findings recorded by the Tribunal. Once the claimant/appellant has not proved on record that

he was a duly adopted son of the deceased Smt. Maya Kaur he has no right to claim compensation on account of death of Smt. Maya Kaur in the motor accident. As has been recorded by the Tribunal also he himself has not claimed before the Court that he is the adopted son of Smt. Maya Kaur. He has not even performed the last rites of Smt. Maya Kaur. However, otherwise also once he claimed to be the adopted son of Smt. Maya Kaur; he was required to prove the adoption by proving the ceremonies of the adoption in question. No such evidence has been led by the claimant. So far as the Will relied upon by the claimant and the probate proceedings thereon are concerned, the Tribunal has rightly held the same as not proving the factum of adoption. Will *per se* is not any proof of adoption. Will is supposed to be only the testamentary document of disposal of the property. Otherwise also, the Will is of Neki Ram and not of Smt. Maya Kaur. Therefore, this Will is totally irrelevant for the purpose of present claim petition.

No other point was argued by learned counsel for the appellant.

In view of the above, this Court finds no illegality or perversity in the findings recorded by the Tribunal and the same are upheld. Therefore, the present appeal is dismissed being devoid of any merits.

11th September, 2017

Shivani Kaushik

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*