

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.1105 of 1989
Date of Decision.31.07.2017

Gurdip Kaur and others

.....Appellants

Vs

Punjab State through the Collector, Faridkot and others

.....Respondents

Present: Mr. Anand Kataria, Advocate
for the appellants.

Mr. Jaswinder Singh, Sr. DAG, Punjab.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appellants are the legal representatives of deceased-Buta Singh, who had allegedly died in a motor accident occurred on 26.07.1987 and resultantly, the application under Section 110-A of the Motor Vehicles Act, 1939 was filed seeking compensation for death by impleading the driver of the bus owned by the Punjab Roadways bearing registration No.PNF 8564, alleged to be coming from the opposite side.

Mr. Kataria, learned counsel appearing on behalf of the appellants submits that Buta Singh along with one Jaspal Singh died in the accident due to rash and negligent driving of the driver of the bus owned by Punjab Roadways. However, The Tribunal only granted compensation under Section 92-A of the erstwhile Act under “no fault liability” on the premise that the vehicle driven by Buta Singh was not a registered one and was carrying buffalo as it was a mechanical contrivance (*jugad/peter rehra*).

He further submits that the Tribunal has committed illegality and perversity in not assessing the compensation on merits once apparently the negligence of the bus driver has been found to be proved on record and

therefore, the amount of compensation is liable to be assessed on merits.

Mr. Jaswinder Singh, Sr. DAG, Punjab appearing on behalf of the Punjab Roadways submits that the vehicle was not registered. The appellants have failed to prove the negligence/rashness of the bus driver, who drove the vehicle on the correct side of the road. In fact such types of vehicle are not permitted to be plied on road and for that reason, the negligence has rightly been attributed to the aforementioned vehicle, thus, urges this Court for upholding the award passed by the Tribunal by dismissing the appeal.

I have heard learned counsel for the parties, appraised the paper book and of the view that finding rendered by the Tribunal is perfectly legal and justified and cannot be altered, for, concededly the deceased along with one Jaspal was plying the *peter rehra/jugad* which was not registered vehicle. Such types of vehicle are not permitted to be plied on road as they are not roadworthy and having not been given certificate by the authorities for plying on the road. Plying of such vehicles on road can incur risk to the life of persons travelling on road. Be that as it may be, the fact remains that the appellants have not been able to prove on record the negligence of the bus driver. The compensation awarded under Section 92-A of the erstwhile Act on account of no fault liability is perfectly legal and justified and I do not intend to differ with the aforementioned finding. No ground for interference is made out.

The award passed by the Tribunal is upheld and the appeal is dismissed.

(AMIT RAWAL)
JUDGE

July 31, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No