

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 2252 of 1994 (O&M)
Date of Decision: 19.1.2017

Charanjit Kaur and another

.....Appellants

Versus

Munshi Ram and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Mohinder Singh, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent No. 3.

Mr. Sumit Singh Bairagi, Advocate for
Mr. Gagneshwar Walia, Advocate
for respondent No. 4.

ANITA CHAUDHRY, J (ORAL)

The claimants are the parents of deceased Hardial Singh who died in a motor vehicle accident on 17.6.1992. An award of Rs. 25,000/- only was awarded under no fault liability as the Tribunal formed a view that it was not on account of rash and negligent driving of Munshi Ram.

It would be pertinent to mention here that the entire record had been destroyed in a massive fire incident which took place in the High Court. Only the grounds of appeal and the judgment is available. The parties had been asked to place whatever material was available with them. The copy of the FIR alone was placed on record by the appellants.

Counsel for both the parties had stated that they have no

It is necessary to notice the facts first.

The case of the claimants was that Hardial Singh after attending a marriage was going to attend his duty on a scooter. At about 8.00 A.M. he had reached near Subhanpur on G.T.Road when a truck No. HIB-2752 driven by Munshi Ram came from the opposite side and struck against the scooter. As a result, Hardial Singh suffered injuries and died on the spot. Sawan Singh grandfather of Hardial Singh was travelling in a bus coming from Amritsar side. The bus had reached the place where the accident took place. One Niranjana Singh, a resident of Dulo Nangal was also travelling along with Sawan Singh and both of them had witnessed the occurrence.

A case was lodged with the police. The parents claimed compensation for the death and had pleaded that their son was 26 years old and was earning Rs. 2,000/- per month.

The claim was resisted by the respondents. It was pleaded that the facts were incorrectly given. Their case was that Munshi Ram was driving his truck from Jalandhar side and was going to Amritsar and had crossed the small bridge near Subhanpur when a Punjab Roadways bus was seen coming from Amritsar side and he took his truck to the extreme left side. In the meantime, the scooterist tried to overtake the bus while coming from Amritsar side and he could not control the scooter and struck against the bus. In that process, the scooter also struck against the front side of the truck and fell down. It was pleaded that the bus driver did not stop the bus and the truck immediately stopped and he had nothing to do with the accident and the accident occurred because of the negligence of the deceased.

Respondent No. 4 wife of the deceased filed her reply claiming

compensation for the death of her husband.

The Tribunal noted that Sawan Singh who was the author of the FIR had not been examined. Niranjana Singh could not show that he was travelling in the bus and could have witnessed the accident. The witness could not give the registration of the bus in which he was travelling or the depot to which the bus belonged. The presence of Sawan Singh at the time of death was also doubted. He was not produced in the witness box nor any reason was given. There was no reason why he could not be produced. The Tribunal had noted that had the police reached the spot they would have joined the driver of that bus in the investigation and considering all the facts, the claim was held to be false. It was held that the best evidence which was available to the claimants had not been produced and the solitary statement of Niranjana Singh could not be accepted. It noted that the investigating officer was also not examined. The claim was dismissed. The onus was on the claimants and it had to be proved that the truck driver was at fault. No site plan was tendered to show the spot of accident. The statement of Niranjana Singh was rightly disbelieved. There is no reason to take a different view. There is no infirmity in the findings.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

January 19, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No