

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

FAO No.1694 of 1995 (O&M)

Date of decision: 08.09.2017

State of Haryana and another

....Appellants

Versus

Janki Devi and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. D.K. Mittal, DAG, Haryana,
for the appellants.

Mr. P.S. Pabla, Advocate,
for respondent No.2.

RITU BAHRI J. (Oral)

State of Haryana etc.-appellants have come up in appeal against the awarded dated 17.02.1995 passed by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.3,00,000/- has been awarded in favour of the claimants-respondent Nos. 1 to 5 on account of death of Jagdish Rai in a motor vehicular accident which took place on 25.12.1990. Respondent No. 1 is widow, whereas respondent Nos.2 to 5 are children of deceased Jagdish Rai

Brief facts of the case are that on 25.12.1990 at about 8.00 P.M., Jagdish Rai (since deceased) boarded a Haryana Roadways Bus bearing registration No.HNG-2959 from By-Pass, Delhi for his home town, Samalkhan. At about 9.30 P.M., the said bus reached at bus stand, Samalkhan. When, Jagdish Rai tried to alight from the back door of the bus, Chakva Bain-driver (respondent No.6 herein) suddenly started the bus, as a result of which, Jagdish Rai fell down on the road. However, bus driver and conductor did not bother and they ran away along with the bus. The

injured was firstly taken to his house and thereafter, he was shifted to

Gandhi Nursing Home at Panipat, where he succumbed to the injuries. On the basis of statement made by Sant Lal, brother of deceased, an FIR under Sections 279/304-A IPC was registered at Police Station, Samalkha against Chakva Bain-driver on 02.01.1991. Consequently, the claimants (respondent Nos. 1 to 5 herein) filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place due to the rash and negligent driving of the offending bus by its driver-Chakva Bain (respondent No.6 and thus, returned the finding on issue No.1 in favour of the claimants-respondent Nos. 1 to 5. This finding was rightly given on the basis of deposition of Kanwar Sain (PW-4), who was an eye witness of the occurrence. Ultimately, the claim petition was accepted and a sum of Rs.3,00,000/- was awarded as compensation in favour of the claimants. Feeling dissatisfied with the impugned award, the State of Haryana has preferred the present appeal.

I have heard learned counsel for the appellant and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. The sole ground for challenging the award is that the FIR was registered after a gap of eight days on 02.01.1991. However, a perusal of the impugned award shows that Kanwar Sain, an eye witness of the accident, has appeared as PW-4 and testified the case of the claimants with regard to the accident. HC Hanu Ram (PW-2) had deposed with regard to the FIR, Ex.PA, preparation of the site plan, Ex.PB and arrest of the bus driver on 09.01.1991. There has been recovery of bus ticket from the pocket of the deceased by his brother

Sant Lal. PW-2 further deposed that Inderjit, Suresh, Sunil and Kanwar Sain were the eye witnesses of the accident in question. He had also recorded the statement of ticket clerk of Haryana Roadways, Delhi depot, who had issued those tickets to the conductor of the bus in question. The finding recorded by the Tribunal is not required to be interfered with, as the evidence led by the claimants is sufficient to prove that the accident had been caused on account of rash and negligent driving of the offending bus by its driver.

Learned counsel for respondent(s) has informed that driver of the offending has since been convicted in the criminal trial, which he was facing consequent upon registration of the FIR, Ex.PA.

In the light of the above discussion, this Court is of the view that the Tribunal has rightly recorded finding on issue No.1 against the driver of offending bus. Because of his rash and negligent driving, the accident had occurred and Jagdish Rai received injuries, which resulted into his death. The mere fact that the FIR had been registered after a gap of eight days, will not be sufficient to disbelieve the statement of eye witness Kanwar Sain (PW-4).

After going through the impugned Award, no illegality, much less perversity has been found therein warranting interference by this Court. The Tribunal has assessed the compensation after appreciating evidence in the right perspective.

Resultantly, finding no merits, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

08.09.2017
ajp

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No