

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

FAO No.2204 of 1995

Date of Decision: 24.11.2017

Sukhwinder Singh and others

...Appellants

VERSUS

Jeet Ram and others

...Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr.S.K.Singla, Advocate, for the appellants.

Mr.B.S.Dhillon, Advocate, for respondent No.1.

Mr.Vivek Sharma, Advocate, for respondent No.2.

RITU BAHRI, J. (Oral)

The claimants/appellants have come up in appeal against the Award of learned Tribunal dated 04.04.1995 whereby their claim petition had been dismissed.

A perusal of the Award shows that the claim had been dismissed on two counts. Firstly, the finding on issued No.1 is that appellants have examined on Harnam Singh, eyewitness as PW-2. This witnesses had stated that the tractor bearing No.HRJ-6849 came from the side of Kaithal in rash and negligent manner and without blowing any horn and run down Avtar Singh who was standing on kutcha portion of the road. That tractor driver ran away after the accident. That Avtar Singh died at the spot. The appellants have also tendered copy of FIR Ex.P1 report under Section 173 Cr.P.C. Ex.P2 as well as post-mortem report Ex.P5. In view of the statement of this witness and the fact that respondent No.1 was facing trial it would have been sufficient to hold

that the tractor was driven by respondent No.1 rashly and negligently. However, during enquiry of this case Santokh Singh another eye witness and Sangat Singh at who instance the FIR was lodged made statement Ex.R3 and R2 before the learned Magistrate alleging that they do not know as to who was driving the tractor.

Secondly, It was stated by Jeet Ram respondent as RW1 had denied that he was driving the tractor but had admittedly in his cross-examination that on the date of accident he was employed in tractor trolley but as labour. Meaning thereby, he admits that accident occurred with the tractor. Jaswant Singh RW2 had further stated that Jeet Ram was neither employed as labour nor as driver. Thus evidence of both the parties is evenly divided. Thus, the learned Tribunal had referred to the photograph Ex.R1 which was admittedly taken at the place of occurrence. In this photograph the number of tractor was written as HRJ 8849, whereas the number given by the appellants was HRJ 6849. As such, learned Tribunal has not been agreed with the counsel for the appellants that this number was on the trolley and not on the tractor. Because it was not the case of the appellants that the tractor was bearing another number whereas the trolley was bearing another number. As such, it has not been proved that accident took place on the rash and negligence driving of respondent No.1.

In view of the above, learned Tribunal had rightly dismissed the claim of the appellants as it is not proved that accident has taken place on account of rash and negligence driving of respondent No.1.

So in the light of the discussion, the orders of the learned Tribunal does not reflect any material irregularity or perversity which warrant interference. Hence the present appeal stands dismissed.

24.11.2017
anil

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>