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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2054-1997

Date of decision : 12.07.2017

Laxman Singh

... Appellant(s)

Versus

Sant Lal and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajinder Goel, Advocate
for the appellant.

AMIT RAWAL, J. (ORAL)

The appellant-claimant is aggrieved of the Award dated 05.09.1997, whereby the claim petition, despite having determined the compensation, has been dismissed on ground that there was a delay in lodging the FIR.

Mr. Rajinder Goel, learned counsel appearing on behalf of the appellant-claimant submits that the deceased while alighting from the Bus bearing No.HYT/9820 and sustained injuries. He remained in Hospital from 13.12.1995 to 11.01.1996 and the aforementioned factum is proved from Ex.PA. The FIR was registered on 05.01.1996 (Ex.PC) and therefore, the claim petition could not have been dismissed. Challan under Section 173 of the Criminal Procedure Code has been filed against the driver, which has been proved as Ex.P-3. The Motor Accidents Claims Tribunal has ignored the testimony of PW-3 Ishwar Singh, Duty Inspector, Haryana Roadways, Sub-Depot Tohana, vide which, Duty Register of the aforementioned Bus

has been proved on record, to establish that the said bus was plied at the same place i.e. between Hisar to Kaithal and the accident had also taken place on the aforesaid route, thus, intentional involvement of the vehicle cannot be a ground for negating the claim of the appellant.

On the contrary, the stand of the Haryana Roadways in the written statement is that no accident had taken place. The determination of the compensation would not given a credence to the claim of the claimants in view of the delay in lodging the FIR as the vehicle has been introduced later on after giving due thought, in order to extort the money from the State Exchequer, which is not the scope of the Act, and therefore, the claim petition has rightly been dismissed.

I have heard the learned counsel for the appellant and gone through the record.

The statement of PW-1 Dr. Brij Bhushan Banga, CMC, Hospital, Hisar, had already been noticed by the Tribunal for the purpose of determining the compensation and therefore, there is no need to reproduce the same. However, I would be committing a fallacy, if I do not extract the statement of PW-3 Ishwar Singh, Duty Inspector, much less, his cross-examination, which reads as under:-

" I have brought the duty register of Haryana Roadways Sub Depot, Tohana. In the said register, it is mentioned that on 12.12.95, the bus No.HYT/9820 driven by Sant Lal started at 6-25 A.M. from Hisar. It reached at Tohana at about 8-30 A.M. and it again started from Tohana at 9 A.M. and reached Hisar and thereafter again left Hisar at 11 A.M. for Tohana and at 2 P.M. left Tohana for Kaithal and started from Kaithal at 4.30 P.M. for Tohana. On the way, village Dhanori and Baliyala falls.

XXX...

As per the record brought by me, I cannot say as to whether the bus met with an accident or not. On that day, as per the record, bus remained enroute on the next date."

to establish that there cannot be any doubt that the vehicle was being plied at the route, where the accident had taken place. In such matter, the delay cannot be said to be fatal for the purpose of denying the claim, particularly when the deceased was discharged on 11.01.1996, vide Ex.PA.

Keeping in view the aforementioned facts and circumstances, the findings of the Tribunal on issue No.1 are hereby modified and it is held that the claim petition is maintainable. Since the compensation had already awarded, the claimant/appellant shall be entitled to claim the same with the interest, as already granted in the claim petition.

The case is of the year 1997, when the appellant/claimant was 60 years' old. We are in the year 2017. Almost 20 years have gone by. It is not known that whether the appellant/claimant is alive or not. Be that as it may, the fact remains that the claimant has suffered loss, in case, he is alive, he would be getting the benefits of the compensation, if otherwise, his legal heirs.

With the aforesaid observations, the appeal stands allowed.

12.07.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No