

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

FAO No. 765 of 1996 (O&M)
Date of Decision: October 12, 2017

Raj Kaur and others

..Appellant(s)

Versus

Punjab State and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vivek Sharma Bhanot, Advocate
for the respondents.

Mr. A.A. Pathak, Add. A.G., Punjab.

Mr. Pardeep Kumar, Advocate
for National Insurance Company.

ANITA CHAUDHRY, J.

This appeal has been filed by the claimants aggrieved by the dismissal of their claim petition by the Motor Accident Claims Tribunal, Ludhiana.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Only the copy of the award could be reconstructed. None of the parties could give any other material for reconstruction of the record except copy of the written statement, copy of the FIR and complete copy of the award. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever is available on the record.

It would be necessary to refer to the facts given by the claimants and the story put forward by the other side. The claimants' case was that on 07.01.1993 a Government Allwyn Nissan vehicle which did not have any registration number, was carrying police officials. Another truck bearing registration No.PAT-1564 was carrying CRPF and Home Guard Jawans. Both the vehicles started from Police Station Dehlon at 5:00 A.M. An hour later, they were near the canal bridge of Khanpur. It was pleaded that Pardeep Kumar was driving the Nissan Vehicle and he tried to overtake the truck from the wrong side. The width of the road was only 5 feet. Surjit Singh, who was driving the truck, in order to avoid the accident, took the truck towards his right side and the truck fell in the canal with the result that the driver, the cleaner and number of CRPF Jawans and Home Guards died due to drowning. It was claimed that the accident occurred on account of negligent driving of Pardeep since he was overtaking from the wrong side of the truck. It was claimed that a false FIR had been lodged stating that Kultar Singh cleaner was driving the truck.

The respondents' claim was that the accident did occur but not in the manner as stated in the claim petition and the truck was not driven by Surjit Singh but it was Kultar Singh who was driving the vehicle and he had died on the spot. It was pleaded that Kultar Singh was driving the truck in a rash and negligent manner and he tried to overtake the Nissan and while overtaking, the truck fell into the canal.

The claimants had examined Sarwan Singh, who was the owner of the truck. He was the only witness to depose about the accident. He was not present on the spot and was not an eyewitness. The FIR had been lodged by Joginder. Joginder had appeared as RW-1 and had stated that the truck was driven by Kultar Singh and Surjit was the cleaner and Kultar Singh was overtaking his vehicle and took a turn and the truck fell into the canal and the accident occurred on account of negligence of Kultar Singh.

The Tribunal dismissed the claim petition holding that the claimants had failed to examine any eyewitness to prove the negligence of the other side.

The only witness examined by the claimants was Sarwan Singh, whose presence on the spot was disputed and it could not be proved. The Tribunal had dealt with this minutely in para no.7 and there is no reason to take a different view. I find no infirmity in the award. The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

October 12, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No