

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

FAO No.2497 of 2000
Date of decision : 04.08.2017

Mohinder Kaur

...Appellant

Versus

Jagdish Lal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S. Siao, Advocate for the appellant.

Mr. Parvinder Kaur, Advocate for
Mr. Gurcharan Singh, Advocate for respondent Nos.1 and 2.

Ms. Swatanter Kapoor, Advocate for respondent No.3.

ANIL KSHETARPAL, J.

The claimants-appellant is in first appeal against the dismissal of the claim petition under the Motor Vehicles Act.

The claimants filed the claim petition under Section 166 of the Motor Vehicles Act for grant of compensation. The Motor Accident Claims Tribunal, Fatehgarh Sahib vide order dated 10.05.2000 dismissed the claim petition on the ground that the claimants were not able to establish that the driver of truck/tanker was rash and negligent.

The learned Motor Accident Claims Tribunal, Fatehgarh

Sahib held that the claimants have not produced the judgment of criminal court wherein driver of the truck/tanker was being prosecuted for rash and negligent driving.

This appeal was admitted.

The claimants have filed the copy of the judgment passed by the Sub Divisional Judicial Magistrate, Amloh wherein Karnail Singh, driver of the truck/tanker has been convicted.

Although the aforesaid judgment is not binding on the Motor Accident Claims Tribunal, however, it is of some evidentiary value.

The claimants have also examined eye-witness-Rajinder Singh. It is also admitted fact that the truck/tanker hit the trolley from behind. In other words, truck/trolley came from backside and hit tractor trolley which was going ahead.

The learned Motor Accident Claims Tribunal, Fatehgarh Sahib has not chosen to even provisionally assess the compensation payable.

In the facts and circumstances of the case particularly when the judgment of the Criminal Court has already been allowed to be produced in additional evidence, I deem it appropriate to remand the case back to the Motor Accident Claims Tribunal, Fatehgarh Sahib for re-adjudication. The order passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib dated 10.05.2000 is set aside. Accordingly, the present appeal is allowed.

The Motor Accident Claims Tribunal, Fatehgarh Sahib is

requested to finally decide the dispute within a period of six months from the date of receipt of certified copy of this order as accident took place on 04.03.1996 resulting into the death of Late Sh. Shiv Kumar.

Any observation made by this Court while deciding the first appeal shall not affect the decision of the Motor Accident Claims Tribunal, Fatehgarh Sahib.

04.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No