

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

FAO No. 516 of 1999

Date of decision:- January 10, 2017

SAT PAL AND ANOTHER

....APPELLANTS..

VS.

ANGOORI DEVI AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Nipun Verma, Advocate,
for the appellants.

Respondents No. 1 and 5 ex-parte.

None for respondents No.2 and 3.

Mr. R.K. Bashamboo, Advocate,
for respondent No.4.

JASPAL SINGH, J. (Oral)

Instant appeal has been directed against the Award dated 18.12.1998 passed by Motor Accident Claims Tribunal, Bhiwani (for short, "Tribunal") vide which a sum of ₹50,000/- has been awarded as compensation to claimant-Angoori Devi and the appellants being the driver and the owner of the offending vehicle/Tempo No. HYR-7313 have made jointly and severally liable to pay the same.

2. While assailing the impugned award dated 18.12.1998, it has been argued with vehemence by learned counsel for the appellants that the same is absolutely against the evidence available on file and settled canons of law. Mis-appreciation of evidence as well as settled proposition of law applicable to the facts and circumstances of the case in hand has resulted

into miscarriage of justice.

3. Firstly, from the evidence, it is not established on record that appellant-Sat Pal was responsible for rash and negligent driving. In fact, a criminal case bearing FIR No. 339, dated 23.09.1993, under Sections 279, 337, 338 IPC, Police Station Sadar, Bhiwani was wrongly got registered by Angoori Devi (injured-respondent), in which, he stands acquitted vide judgment dated 21.10.1998.

4. Secondly, it was a case of contributory negligence. Angoori Devi-respondent-claimant got the FIR registered clearly stating that both the Tempos involved in the accident were on the road and either of the Tempos did not give side. Not only this, she has further stated that the Tempo, in which, she was travelling was being driven by Ramesh Kumar and after the accident, she fell down. Though, Sheela Devi asked the driver to stop the tempo but he accelerated it. Both the tempos were also on the road after the accident. All these facts leads to the conclusion that the accident took place due to the negligence on the part of both the tempo drivers. As such, it being a case of contributory negligence, both the drivers should be asked to share the compensation equally.

5. On the other hand, learned counsel appearing on behalf of the respondent-Insurance Company has opposed the contentions put forth by learned counsel for the appellants. He has submitted that the plea of contributory negligence is not available. Sat Pal, driver of offending vehicle though tried to shift the negligence on the part of respondent No.2-driver of Tempo No. HNR-4252 but failed to establish it. Similarly, mere acquittal of appellant-Sat Pal in a criminal case registered against him is also not

sufficient to absolve him from his liability as the evidence adduced before the Tribunal is to be taken into consideration independently without being influenced by the observations made by the Criminal Court. Thus, the appeal being devoid of merit is liable to be dismissed.

6. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and has perused the records.

7. Admittedly, on account of rash and negligent driving, a criminal case was registered against appellant-Sat Pal, under Sections 279, 337 and 338 IPC at Police Station Sadar Bhiwani, however, he has since been acquitted in the said case vide judgment dated 21.10.1998. But mere acquittal by the criminal court is itself no ground to absolve appellant-Sat Pal from his liability to pay the compensation awarded to claimant-injured Angoori Devi. It has rightly projected by learned counsel for respondent No.4 that the evidence adduced before the Tribunal with regard to the rash and negligent driving is to be gone into and considered independently without being influenced by any findings/observations given by the criminal court. If the evidence adduced before the Tribunal is gone through independently, it stands amply proved that the accident occurred solely due to the rashness and negligence on the part of Sat Pal. Minor contradictions pointed out by learned counsel for the appellants, during the course of arguments are not suffice to discard the statement of Angoori Devi in its entirety, which otherwise, stands fortified from the testimony of PW8 Sheela Devi, who was accompanying Angoori Devi, at the time of accident. Moreover, statement of Sat Pal, who appeared in the witness-box as PW-2

can be termed to be self-serving one as it does not find any corroboration from any other witnesses. Though, it has been stated by him that 4/5 passengers were travelling in his Tempo, at the time of accident but he has failed to examine any witness out of them to support his version. There is also nothing on the record to suggest that the accident was a result of contributory negligence.

8. In the light of what has been discussed above, this Court is of the considered view that there is no infirmity or illegality in the impugned Award and same is absolutely in consonance with the evidence available on file and settled canons of law. No interference by this Court is justified. Accordingly, appeal stands dismissed.

9. No order as to costs.

January 10, 2017

sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No