

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 2616 of 2003 (O&M)

Date of Decision:20.11.2017

Gobind Kaur and another

...Appellants

Vs.

Ahsas alias Bhoop Singh and others

...Respondents

CORAM:-HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rishav Jain, Advocate for
Mr. Arun Jindal, Advocate,
for the appellants.

Mr.R.N.Singal, Advocate for respondent no.3

RAJIV NARAIN RAINA, J. (Oral)

1. The best person who could have recreated the accident was Makhan Singh sitting pillion when deceased Baljit Singh was riding the scooter. Makhan Singh was not produced as witness. I should imagine they knew each other well.

2. The accident was caused on February 04, 1994 at 5.15 P.M. The sole eye witness set-up by the claimants was AW4 Sukhdev Singh son of Mukand Singh, resident of village Toorbanzara, which is at a distance of 12/13 kms from the village of the claimants i.e. Khanpur Faqiran, Post Office Nagri, Tehsil Sunam, District Sangrur. Sukhdev Singh turned out to be a conductor in Punjab Roadways Transport Corporation. He deposed that he saw the accident between the scooter and the Trawler. The bus he was in was plying route Sangrur to Patran. The arrival of the bus on the site was about 6.20 P.M. at village Patran.

Patran is 18 Kilometers from village Toorbanzara. Toorbanzara is 24 kilometers from Sangrur. His bus was about two furlongs short of the place of occurrence. If that is so, he happened watched the accident from quite a distance. The trawler had covered half a furlong ahead after passing from the place of occurrence. He said he did not inform the police about the accident on that day. That's alright when on duty. In fact he never did report the matter at all to the police or make statement before the police authorities anytime thereafter. He, however made statement that the driver of the offending trawler removed the injured to the Civil Hospital, Sangrur. The accident was caused due to rash and negligent driving of the driver of the trawler. Both the riders had fallen down in the course of accident. He admitted that he has not received any summons to appear in Court as a witness. He was informed by the claimants and appeared at that instance. He took leave to appear as a witness in Court. He was still working at Depot Sangrur at the time of recording of deposition in 2002.

3. On cross-examination by the counsel for the owner Surinder Kumar, AW4 Sukhdev Singh admitted that he did not know the driver of the '*tralla*' [Trawler]. He never took the injured to the hospital. He did not enquire about the name of the driver and strangely only enquired from him the number of the vehicle. From the above, it appears that AW4, Sukhdev Singh neither knew the driver nor knew the registration number of the vehicle alleged to be the offending thing. It appears to me that the number of the trawler could only have been known if it was stationary thereabout. The Tribunal has not reposed faith on the statement of AW4, Sukhdev Singh who appears to have been a procured witness brought to

support the claim petition. Besides, there are discrepancies in the evidence where Sukhdev Singh says that the injured was taken in the Trawler and the statement of witness Nazar Singh, who lodged the FIR mentioning that the injured was taken in a car to the nearest civil hospital for first aid and treatment.

4. The Tribunal has read the evidence in the testimonies of the witnesses and held that there are missing links therein which make the death of Baljit Singh in an accident caused by respondent No.1 while driving the Trawler bearing registration No. HR-12-A-1057 belonging to the owner respondent No.2 highly doubtful.

5. AW1 Namdev Singh was also not believed claiming to be an eyewitness. He stated that deceased Baljit Singh and injured Makhan Singh (i.e pillion rider) were put in the same Trawler and were taken to Sullar Gharat Police Station. He is supposed to have made a statement to the police that the injured were taken to the police station from where they were taken in the same Trawler to the Civil Hospital Sangrur where Baljit Singh died. The Trawler seems to have disappeared out of sight and thereafter, without any police record supporting the deposition until six months later the driver was arrested and sent for trial and from which proceedings the driver has been discharged.

6. Driver Ahsas @ Bhoop Singh deposed before the Tribunal that he was not plying on the route on the day when the allegedly accident took place and would not be responsible for the death of Baljit Singh. If the driver took the injured to the police station, if AW1 Namdev Singh is to be believed, then the Tribunal is not incorrect in drawing an inference that the driver would have been arrested by the

police or action taken against him as per law and if the narration was correct then the names of the offenders would have come on police record and also the number of the offending vehicle. The FIR was registered against unknown persons.

7. In the facts and circumstances of the case, I have no reason to disagree with the findings of the Learned Motor Accident Claims Tribunal, Sangrur doubting the accident and accordingly the appeal deserves to be dismissed when the accident is not proved by unimpeachable evidence.

8. As a result, the alternative arguments of Mr. Jain, learned counsel for the appellants that the claimants deserve to be awarded compensation on principle of 'No-fault liability' cannot be sustained and I do not feel obliged to grant relief which the claimants seek in this appeal. The insurance company cannot be saddled with the liability of compensation without any reason even for the statutory sum of ₹50,000/-. The hope of finding on rash and negligent driving duly supported by evidence and proof on the preponderance of probabilities is a far cry in this case on the evidence adduced by the claimants. The award is affirmed warranting no interference.

9. Accordingly, this appeal is found without substance and stands dismissed.

(RAJIV NARAIN RAINA)
JUDGE

20.11.2017

MFK

Whether speaking/reasoned

Yes

Whether reportable

No