

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

FAO No. 5677 of 2004

DATE OF DECISION : 14.11.2017

Darshan Lal Kamra

.... APPELLANT

Versus

Rajvinder Kaur and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Sandeep Khunger, Advocate,
for the appellant.

Mr. Lalit Kumar, Advocate,
for respondent No.4 – Insurance Company.

* * *

AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed by Darshan Lal Kamra, who was respondent No.1 before the Motor Accident Claims Tribunal, Ferozepur (for short, 'the Tribunal') in MAC Case No. 28 of 3.2.2000/2002.

The record of this appeal was burnt and from the salvaged record of the partially burnt case, the same was reconstructed subject to all just exceptions and further verification.

The bare facts necessary for adjudication of the present appeal are that Lakhwinder Singh lost his life in a motor vehicular accident that occurred on 02.07.1999. In the said accident, the offending vehicle was car bearing registration No. HR 26G-8298. FIR No. 89 dated 02.07.1999 was also lodged in Police Station Mamdot.

A claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the legal heirs of the deceased.

The Tribunal awarded a sum of ₹ 2,68,800/-. In the award dated 03.11.2003, while awarding the compensation, the Tribunal recorded that respondent No.1 (present appellant) and the Insurance Company are liable to pay the compensation jointly and severally. It was further held that the Insurance Company shall be entitled to recover the amount from the owner of the offending vehicle.

The present appeal has been filed by Darshan Lal Kamra (respondent No.1 before the Tribunal).

I have heard learned counsel for the parties and perused the paper book.

Learned counsel for the appellant argued that owner of the offending vehicle was not arrayed as party before the Tribunal and it is not proved whether respondent No.3 or respondent No.1 (before the Tribunal) was driving the offending vehicle. His further contention is that on one hand, the Tribunal held that the appellant is liable and on the other hand, it was observed that the amount be recovered from the owner of the offending vehicle. The award to that effect is contradictory.

Learned counsel for respondent No.4 – Insurance Company though tried to defend the award on the said issue, but could not raise any serious objection to the aforesaid submissions of the appellant.

The contradiction in the award is evident in para 19 of the award.

Without expressing any opinion on the merits of the case, the

matter only with regard to fixation of liability to pay compensation including validity of the driving licence is remanded back to the Tribunal to be decided in accordance with law.

The compensation amount stated to be already disbursed to the claimants would not be effected by the remand order.

Both the parties are directed to appear before the Tribunal on December 22, 2017.

Appeal is, accordingly, disposed of.

November 14, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No