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

CRR No. 942 of 2009 (O&M)

Date of Decision: 25.09.2017

JAI PAL

...Revisionist

VS.

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Rakesh Gupta, Advocate,
for the revisionist.

Mr. R.K. Makkad, DAG, Haryana.

KULDIP SINGH, J. (ORAL)

This revision is directed against the judgment dated 06.04.2009 passed by the learned Additional Sessions Judge, Panchkula affirming the judgment of conviction and order of sentence dated 13.07.2007 passed by the learned Additional Chief Judicial Magistrate, Panchkula vide which the present revisionist was convicted under Sections 279 and 304-A of the Indian Penal Code and sentenced to undergo rigorous imprisonment for six months under Section 279 IPC and to undergo rigorous imprisonment for one year under Section 304-A IPC. However, both the sentences were directed to run concurrently.

The prosecution case is based on the statement of Ms. Paras, injured-complainant wherein it is stated that she was a student of 10+2 class in Chaman Lal D.A.V. Public School, Sector 11, Panchkula. On 26.09.1996, a handball match was scheduled between team of her school and

Government School, Sector-7, Panchkula which was scheduled to be played at Government School, Sector-7, Panchkula. In order to participate in the said match, Ms. Paras, injured-complainant was going on scooter while riding pillion of scooter; make Priya, bearing registration No. PB-12-1087 being driven by Vikram Meena (Since deceased), who was also a student of 10+2 class in the school of complainant-Ms. Paras. It was at about 9.30 A.M., when they reached Sector 11, Panchkula on their scooter, where they met Vivek Goyal, who was also a student of Class 10+2 in their school and was also to participate in the said handball match. When they reached the intersection point of Sector 11, Panchkula, on the back side of House No. 1016, one truck bearing registration No. HP-11-1448 being driven by the present revisionist came rashly and negligently from the right side of Scooter without blowing horn and hit the Scooter being driven by Vikram Meena. As a result of which, Vikram Meena and Paras fell down alongwith scooter and the rear tyre of the truck had ran over the front portion of the said scooter. Vivek Goyal and Agyapal Singh also reached at the spot and witnessed the occurrence. Many people had also gathered at the spot. Thereafter, the truck driver parked his truck on the side and ran away from the spot. Vikram Meena was removed to PGIMER, Chandigarh where he ultimately succumbed to injuries on 09.10.1996.

The revisionist was charged under Section 279 and 304-A of the Indian Penal Code to which he pleaded not guilty and claimed trial.

To support his case, prosecution has examined Vivek Goyal (PW-1), Ms. Paras (PW-2), Om Dutt Sharma (PW-3), Constable Nafe Singh, Mechanic (PW-4), Vipin Meena (PW-5), Balak Ram (PW-6), Kashi Ram (PW-7) and Dr. Aditya Kumar Sharma (PW-8).

In the statement recorded under Section 313 Cr. P.C., the accused-revisionist has denied the evidence led against him and pleaded false implication.

I have heard learned counsel for both the parties and have carefully gone through file.

In this case, injured-complainant Ms. Paras (PW-2), Vivek Goyal (PW-1), Ms. Paras (PW-2), Om Dutt Sharma (PW-3) has supported the prosecution case. Vipin Meena, father of the deceased-Vikram Meena has also supported the prosecution case.

Learned counsel for the revisionist has vehemently argued that the accident took place on the intersection of Sector 11, Panchkula. The scooter hit the left rear tyre of the truck. Therefore, the truck driver was not at fault. The reference has also made to the site plan, photographs and report of the mechanic. The site plan as well as the photographs placed on file show that the place where accident took place was a sector intersection road of Sector 11, Panchkula and not the main road. Therefore, in the inhabited locality, a fully loaded truck, which is a heavy vehicle, was supposed to be at slow speed and more careful while crossing the intersection road which apparently did not have traffic lights, as public and light vehicles pass through that intersection point. The report of the mechanic shows that there were scratch marks on the left side of the rear tyre of the truck whereas the handle, clutch and break system of the Scooter was found to be damaged. The front mud-guard of the scooter and show of its body was found damaged due to the accident. Therefore, learned counsel for revisionist presses that it was the scooterist who was at fault.

Bare perusal of the site plan shows that after the accident, the

truck driver did not stop immediately rather he stopped at some distance from the place of accident. The truck driver was to cross the said intersection from East to West direction whereas scooter was going from South to North direction. When the statements of the prosecution witnesses are critically examined, it would show that the truck had in fact hit the scooter though the rear tyre of the truck ran over the mud-guard of the front portion of scooter. Apparently, as a result of the accident, both Vikram Meena and Paras fell down. Paras has also made similar statement that it was the front of truck which had first hit the Scooter though it was the rear wheel of the truck which passed over the front portion of the scooter.

In the cross examination, Ms.Paras (PW2) has clearly stated that on the intersection point they had slowed down the scooter but even then the truck had hit the scooter. Om Dutt Sharma (PW-3) has clearly stated in cross-examination that the front portion of the truck had hit the Scooter whereas the rear tyre of the truck had passed over the front portion of the scooter. It was suggested to him that due to the fact that the truck was fully loaded, it was at normal speed. It goes to show that the truck was fully loaded and apparently was being driven at more than the normal speed and the truck driver on seeing the scooterists could not control the truck and the front side of the truck might have slightly touched the scooter as a result of which the scooterists alongwith the scooter fell down. The front portion of the scooter was run-over by the rear tyre of the truck. It is to be noted that on the front side of the truck there is only one tyre on the each side whereas on the rear there are two tyres on the each side adding to the width of the rear tyres. Only mudguard of the front wheel of the scooter was run over by the tyres of the truck. Both Vikram Meena and Paras were not run-over by

the rear tyres of the truck.

There are concurrent findings of the two Courts below. In the statement recorded under Section 313 Cr. P.C., the accused revisionist has not claimed that it was the deceased who was at fault. Therefore, the plea of the learned counsel for the revisionist that it was the scooterist who was at fault was rightly discarded by the both the Courts below.

It being so, I do not find any merit in the present revision and the same is accordingly dismissed. Consequently, the revisionist who is on bail be re-arrested and committed to jail to undergo remaining part of the sentence.

25.09.2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned : ***Yes***

Whether Reportable : ***Yes***