

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

376

FAO No.3558 of 2006 (O&M)

Decided on : 12.10.2017

*Smt.Lakhwinder Kaur and others**... Appellants**Versus**Baljit Singh and another**.. Respondents***CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN**

Present : Mr.H.S.Virk, Advocate for
Mr.J.S.Verka, Advocate for the appellants.

None for the respondents.

Avneesh Jhingan , J. (Oral)

Present appeal has been filed against the award dated 8.4.2006 by the Motor Accidents Claims Tribunal, Gurdaspur (for short 'the Tribunal').

2. This is a burnt case and has been reconstructed from the salvaged record subject to all just exceptions.

3. Lakhwinder Singh lost his life in an accident that occurred on 31.5.2003. A DDR dated 10.6.2003 was recorded after almost 10 days. It would be worthwhile to note that even later in time, no FIR was registered.

4. Claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act') was filed by the legal heirs of Lakhwinder Singh. The Tribunal dismissed the claim petition as the claimants failed to prove that he was travelling on a scooter bearing registration No.PB-58B-0103 (for short 'the offending vehicle') which was owned by Baljit

Singh.

5. Aggrieved of the said award, the present appeal has been filed.

6. Learned counsel for the appellants has argued that it was proved before the Tribunal that deceased borrowed the scooter from Baljit Singh who was his cousin. He contends that it is a fact that Lakhwinder Singh lost his life on 07.06.2003, therefore, the Tribunal erred in dismissing the claim petition filed under Section 163-A of the Act as rash and negligent driving was not to be proved under the said provisions.

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

8. There is no dispute on the legal proposition that in a claim petition filed under Section 163-A of the Act, rash and negligent driving has not to be proved. But the fact remains that claimants have to discharge the onus that accident occurred with a particular vehicle. The issue in the present case is whether Lakhwinder Singh at the time of his death was driving scooter bearing registration No.PB-58B-0103. There is contradiction between the contents of the DDR and the statement given by widow of the deceased before the Tribunal. In the claim petition, it was alleged that Lakhwinder Singh was driving the offending vehicle, he suddenly applied the brakes and the scooter slipped and turned turtle. Lakhwinder Singh received grievous injuries and ultimately succumbed to his injuries. In the DDR recorded, Lakhwinder Kaur wife of the deceased stated that she along with her husband was going on a scooter

towards Gurudwara, Bath Sahib. The scooter slipped near Bye Pass Tibri Road on Gurdaspur-Pathankot Road, as a result of that, Lakhwinder Singh fell down and struck against the road. But when Lakhwinder Kaur appeared in the Court, she stated that she is not the eye witness of the accident. She further stated that she made no report with the police and her signatures were obtained on blank papers. In this position, the only relevant evidence remains is the statement of Baljit Singh who deposed that the deceased had borrowed a scooter from him. From his statement, it cannot be concluded that Lakhwinder Singh lost his life in an accident while driving scooter of Baljit Singh. It cannot be ruled out that the deceased was driving some other scooter which may not be insured and Baljit Singh being a cousin of the deceased, had lended a helping hand by offering the number of his scooter which was duly insured.

9. The claimants failed to discharge the onus. The claim petition fails at the threshold itself. No fault can be found in the award passed by the Tribunal.

10. The appeal is without any merit, and is dismissed.

[Avneesh Jhingan]
Judge

12.10.2017
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No