

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

Date of Decision: 28.11.2017.

(1) FAO No. 21 of 2009 (O&M)

Smt. Kailasho Devi and others

.....Appellants

Versus

Parvinder Singh and others

.....Respondent

(2) FAO No. 22 of 2009 (O&M)

Dharam Pal

.....Appellant

Versus

Parvinder Singh and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Meenakshi Verma, Advocate
for the appellants.

Mr. Ishant Cooner, Advocate for
Mr. J.S. Cooner, Advocate
for respondents No. 1 and 2.

Mr. D.P. Gupta, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.

The present two appeals are against the award dated 14.11.2007 passed by the Motor Accidents Claims Tribunal, Ambala. Since common question of law and facts are being involved in both the appeals, the same are being disposed of by a common order.

Two claim petitions filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act'), were dismissed by a common award.

The bare facts necessary to be noted at this stage are that there was an alleged motor vehicular accident allegedly involving Truck bearing registration No.HR-47-5647. In the said accident Surinder Sharma lost his life and Dharam Pal was injured.

The legal heirs of the deceased-Surinder Sharma filed the claim petition and Dharam Pal himself filed the claim petition for claiming compensation. The Tribunal dismissed the claim petitions on the ground that it has not been proved that the offending Truck was involved in the accident. Aggrieved of the said dismissal, the present appeals have been filed.

Learned counsel for the appellants has argued that the Tribunal while dismissing the appeal has not considered the deposition of PW2-Balbir Singh, who was an eye witness. She further contended that his statement recorded by the police was produced before the Tribunal as Mark-'A' but the same has also not been considered. She further argued that delay in lodging the FIR should not be fatal to the claim petition. She stated that number of the Truck was mentioned in the claim petition. According to her the said evidence was enough to prove the involvement of the vehicle.

On the other hand learned counsel for the respondents argued that the FIR was lodged late and it was against an unknown vehicle. Learned counsel further argued that even in the criminal proceedings, the driver of the said Truck has been acquitted.

In the present case from the reading of the award, there appears to be a dispute with regard to the date of occurrence of accident, at some places, the date of accident has been mentioned as 31.10.2000 and the appellants in its appeal had also mentioned the date of accident as

31.10.2000 and in Para No.13 of the award, the Tribunal has mentioned the date of accident as 21.11.2000. FIR was registered on 30.11.2000. Apart from this, there are no reasons given by the Tribunal for ignoring the deposition of PW-2 Balbir Singh.

The Tribunal first should have decided the issue regarding involvement of the offending vehicle in the accident and thereafter the rash and negligent driving part would come.

Without expressing any opinion on the merits of the case, since there is a dispute with regard to dates also, the award dated 14.11.2017 is set aside and the matter is remanded back to the Tribunal to be decided afresh in accordance with law. The Tribunal should decide the matter after appreciating the material already on record. Since the accident is of the year 2000, it would be desirable that the Tribunal dispose of the remand case expeditiously.

Parties are directed to appear before the Tribunal on 20.12.2017.

28.11.2017
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable: Yes/No