

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.544 of 2005

Date of Decision.23.08.2017

Smt. Bhagwanti

.....Appellant

Vs

Joginder Singh and others

.....Respondents

Present: Mr. Atul Gaur, Advocate for
Mr. Sumeet Goel, Advocate
for the appellant.

Mr. Madhu Sharma, Advocate
for respondent No.3.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appellant-claimant is aggrieved of the dismissal of the claim petition filed on account of death of her husband-Om Prakash Aggarwal, who unfortunately died on 16.06.2001 due to injuries sustained in road accident at the age of 59 years.

Mr. Atul Gaur, learned counsel appearing on behalf of the appellant submits that the deceased-Om Parkash along with one Lalit Garg and Sunil Kumar Goel was going from Mullana to Khizrabad, District Yamuna Nagar in van bearing registration No.HR01E-1219 driven by Lalit Garg on the correct left hand side of the road. The vehicle was driven at a moderate speed, however, at about 4.30 AM when they reached near Sherpur curve near petrol pump of Jagadhari-Khizrabad road, a truck bearing registration No.HR-05-6755, driven by respondent No.1 rashly and negligently, hit the van, as a result of which Om Parkash received multiple simple and grievous injuries.

was 56 years of age and was enjoying good health. At the time of his death, he was running a *karyana* shop and earning about ₹7000/- per month. He submits that there is categorical statement of PW-1, K.S. Nivruti, who had brought the record pertaining to deceased and tendered the same as Ex.P1 to P3. As per the record, the deceased was brought to the hospital on 02.05.2001 and remained in hospital upto 31.05.2001. He was again admitted on 15.06.2001, however, died on 16.06.2001 due to injuries sustained in the motor accident. This was sufficient piece of evidence for the Tribunal to form an opinion with regard to awarding compensation. The deceased was also admitted in the KD Hospital. Bhgwanti Devi had also mentioned that the deceased died after 1 ½ months of the accident and the death was related to the injuries sustained in the accident, in essence, it was an outcome of the accident. Medical bills Ex.P6 to Ex.P21 produced on record also corroborates that the cause of death was on account of injuries sustained in the road accident, thus, urges this Court for setting aside the award passed by the Tribunal.

This Court had issued notice to the driver and owner. Driver has refused the service and notice issued to the owner not received back served or otherwise.

Ms. Madhu Sharma, learned counsel appearing for the insurance company submits that in the absence of direct and cogent evidence i.e. report of the K.D. Hospital or medical record to establish the cause of death related to the accident, rightly so, the Tribunal has declined the claim petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no merit and force in the submissions of

Mr. Gaur, for, no medical evidence has been brought on record to establish the cause of death related back to the injuries sustained on 02.05.2001 as the deceased died on 16.06.2001. Ex.P27 shows that he had multiple fracture of the ribs. Ex.P3/Ex.P29 shows the cause of death on account of upper GI bleed. The important link between the cause of death and the injuries is conspicuously wanting. PW-1, K.S. Nivruti in the cross-examination admitted that he had not brought the record pertaining to the treatment of the deceased. In the absence of any material evidence on record establishing the cause of death relating back to the injuries sustained in the motor accident, it is not possible to form any opinion for awarding the compensation to the appellant for death of her husband.

In view of the aforementioned observations, the award passed by the Tribunal is upheld and the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

August 23, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No