

101.

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

FAO-3119-2011 (O&M)

Date of decision:14.03.2017

RAM SINGH AND ORS

... Appellants

versus

SUKHWINDER SINGH AND ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. R.V. S. Chugh, Advocate,
for the appellants.

Ms. Anna Bansal, Advocate,
for respondent No.2.

HARI PAL VERMA, J.

The appellants-claimants have filed the present appeal against the award dated 14.09.2010 passed by Motor Accident Claims Tribunal, Mansa (for short, the Tribunal) whereby their claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 for grant of compensation on account of death of Jagdev Singh in a motor vehicular accident which took place on 22.12.2005, was dismissed.

Briefly stated, the claimants-Ram Singh, Amarjit Kaur, Mohinder Kaur and Sewak Singh are father, mother, sister and brother respectively of the deceased Jagdev Singh. As per the claim petition, on 22.12.2005, Jagdev Singh was coming from Singla Brick Kiln, Pakho Kalan to leave the tractor without trolley in the premises of Janta Brick

Kiln, Joga, under the directions of his employer Tarsem Lal. When Jagdev Singh had reached at canal bridge of Village Aklia on Mansa Barnala Road, then due to some technical defect, steering wheel of the tractor jammed and the tractor ran towards the canal, breaking the railing of the bridge, fell into the canal water. Due to the accident, Jagdev Singh also fell into the canal along with the tractor and died at the spot due to head injuries and cold water. As per the claimants, the accident took place due to technical defects in the tractor and this fact was well in the knowledge of owner of tractor-respondent No.2. Deceased-Jagdev Singh was quite healthy and was not suffering from any disease. He was working as a tractor driver and was also cultivating the land. He also used to keep cows and buffaloes and used to sell milk. The income of the deceased was not less than ₹5,000/-, but the claimants claimed his income as ₹40,000/- per annum. Due to untimely death of Jagdev Singh, the claimants have suffered huge financial loss as well as loss of love and affection.

The Tribunal has held that Jagdev Singh had died when he was spreading the fertilizer in the field due to overturning of the tractor and has not died in the road accident, as claimed by the claimants. Accordingly, the Tribunal vide award dated 14.09.2010 dismissed the claim petition.

Aggrieved against the aforesaid award dated 14.09.2010, the claimants (appellants herein) have filed the present appeal.

Learned counsel for the appellants-claimants has argued that the Tribunal has committed grave error and has wrongly held that the documents Exs. R1 to R13 belies the very version of the claimants that Jagdev Singh died in a road accident while driving the tractor. The Tribunal has wrongly placed reliance on these documents, which were neither signed by the claimants, nor duly proved on record, rather the same were procured by the respondents in connivance with the police officials.

I have heard learned counsel for the appellants.

As per the documents Exs.R1 to R13 and affidavit filed by the claimant-Amarjit Kaur and the statements of the Sarpanch and Panches of the Village, the respondents have succeeded in proving the fact that Jagdev Singh had died while spreading fertilizer in the field. Ex.R1 is an application given by Amarjit Kaur seeking compensation from the Market Committee, Bhikhi; Ex.R2 is the affidavit duly sworn by her; Exs.R3 to R6 are the statements given by Sarpanch and Panches of the village where they have submitted before the police that Jagdev Singh had died when he was carrying fertilizer in the tractor for spreading the same in the field; Exs.R7 to R9 are the police reports stating that Jagdev Singh had died due to overturning of the tractor when he was spreading the fertilizer; and Ex.R10 is the letter written by Deputy Commissioner, Mansa to Secretary, Market Committee, Bhikhi recommending that Jagdev Singh died while has spreading the fertilizer. The perusal of all these documents shows that earlier the

claimants pleaded that Jagdev Singh died due to the overturning of the tractor when he was spreading fertilizer in the field, whereas in the claim petition, the claimants alleged that Jagdev Singh died in an accident while working as a tractor driver with brick kiln of Tarsem Lal. Thus, there is complete contradiction in the claim as projected in the claim petition.

Once it is established that Jagdev Singh had died when he was spreading the fertilizer in the field due to overturning of the tractor, I find no illegality in the award passed by the Tribunal and accordingly, the appeal filed by the appellants-claimants stands dismissed.

(HARI PAL VERMA)
JUDGE

14.03.2017
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No