

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

(1)

FAO No. 434 of 2011

Geeta Devi and another

.... APPELLANTS

Versus

Manish Kumar and another

.... RESPONDENTS

(2)

FAO No. 435 of 2011

Geeta Devi

.... APPELLANTS

Versus

Manish Kumar and another

.... RESPONDENTS

DATE OF DECISION : 07.11.2017

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Paramdeep, Advocate, for
Mr. Gaurav Chopra, Advocate,
for the appellants.

Mr. Satish Mishra, Advocate, for
Mr. Naveen Chopra, Advocate,
for respondent No.2.

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AVNEESH JHINGAN, J. (Oral)

The present appeals are against the award dated 31.05.2010
passed by the Motor Accident Claims Tribunal, Ambala (for short, `the

Tribunal'), dismissing MACT petition Nos. 56 and 60 of 2008.

On 21.04.2008, Geeta Devi along with her children was standing at Bus Stop Pathreri. She was victim of an accident. It is alleged that a dumper bearing registration No. HR-37A/0652 loaded with sand and pieces of stones came on wrong side of the road and turned turtle. As a result of the accident, Geeta Devi suffered injuries and five months old son Vinod lost his life.

Two separate claim petitions under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') were filed for claiming compensation.

The Tribunal dismissed both the claim petitions on the ground that rash and negligent driving of the said dumper was not proved.

From a perusal of the award and the record, one thing is evident that there is no dispute with regard to involvement of the dumper. The Tribunal while dismissing the claim petitions has relied upon the fact that it is not clear from the record as to whether the injuries on the body of Geeta Devi and death of her five months old son were result of the dumper hitting Geeta Devi or she suffered injuries from the stones, as the dumper turned turtle. It appears that in the award, one aspect which needed consideration, is missing, i.e. even if injuries and death were due to stones, yet it is to be seen that whether this dumper was being driven rashly and negligently or not.

In view of the above, without expressing any opinion on the

merits of the case, the award dated 31.05.2010 is set aside and the matter is remitted back to the Tribunal to decide the claim petitions afresh in accordance with law.

Both the parties are directed to appear before the Tribunal on December 22, 2017.

November 07, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No