

In the High Court of Punjab and Haryana at Chandigarh

FAO-815 of 2012(O&M)

Date of Decision: November 29th, 2017

Umed Singh

---Appellant

vs.

Shanti Devi and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Anil Kumar Gehlawat, Advocate
for the appellant

Mr. Devender Arya, Advocate
for Mr. Saurabh Dalal, Advocate
for respondent Nos. 1, 2 and 4 to 6

Rekha Mittal, J.

The present appeal directs challenge against award dated 4.10.2011 passed by the Motor Accidents Claims Tribunal, Rohtak (in short “the Tribunal”) whereby compensation to the tune of Rs. 2,36,000/- with interest at the rate of 6% per annum from the date of petition till realization, on account of death of Raghubir Singh in a motor vehicular accident that took place on 13.12.2005 at about 3-00 p.m., has been awarded.

Counsel for the appellant (owner of the alleged offending vehicle i.e. motor cycle bearing No. HR-12E-2153) has assailed the award imposing liability to pay compensation upon the driver and owner of the

vehicle in question. It is argued that with regard to the occurrence in question, FIR No. 262 dated 14.12.2005 under Sections 279, 304-A IPC was lodged at Police Station, Sampla against Rajesh but Rajesh has been acquitted of the offence vide judgment dated 11.2.2009. The application for compensation was filed by the claimants on 12.3.2009, one month after acquittal of Rajesh, sufficient to show that story propounded by the claimants is doubtful and liable to be rejected.

Counsel would urge that as a matter of fact, accident had been caused by Rajesh but while driving motor cycle No. DL-4SAA-9346 owned by Surinder Kumar resident of Delhi, brother-in-law of one Parkash son of Khima resident of village Dataur, Tehsil Sampla, District Rohtak. After the accident, Parkash came to the appellant and took away his motor cycle on the pretext of urgent work and he (Parkash) in collusion with the police also procured signatures of Devender son of the appellant on some blank papers and succeeded in involving motor cycle of the appellant in the criminal case. When the appellant inquired about this matter from said Parkash, he stated that he would be responsible for the fate of accident and further stated that if his brother-in-law's motor cycle is impounded, he (Parkash's brother-in-law) may commit suicide. Parkash undertook that he would be liable for all liabilities of the police case and in this way, motor cycle of the appellant was involved in the occurrence. In addition, it is argued that motor cycle of the appellant is of black colour but motor cycle of Surinder Kumar is of red colour, as per particulars of both the vehicles recorded in the registration certificates Mahabir son of Hari Singh, an alleged eye witness to the occurrence in his cross examination has deposed

that offending motor cycle is of red colour, sufficient to substantiate plea of the appellant that motor cycle of Surinder Kumar was involved in the occurrence.

Counsel representing the respondents has supported findings of the Tribunal with the submission that the Tribunal, on a detailed consideration of the aforesaid arguments advanced there, has refused to accept contention of the appellant. It is further argued that it is against normal human conduct that a person would lend his vehicle for involvement in the criminal and civil proceedings knowing fully well that the vehicle is not insured and compensation awarded by the Tribunal, if any, would be his responsibility. The last submission made by counsel is that story propounded by the appellant that his motor cycle was involved in the occurrence at the behest of Parkash, an acquaintance, has no foundation and has rightly been rejected by the Tribunal.

I have heard counsel for the parties, perused the paper book and the records.

The application for compensation was filed by Smt. Shanti Devi widow and Balraj son of Raghubir Singh (since deceased). Balraj, one of the claimants appeared in the witness box and Mahabir Singh PW2, an eye witness to the occurrence was examined to prove factum of accident. Umed Singh appellant and Devinder his son appeared as RW1 and RW2 respectively. Indisputably, the vehicle that caused the accident was driven by Rajesh. Rajesh did not appear in the witness box to controvert plea of the claimants or testimony of Mahabir Singh that Rajesh was driving motor cycle bearing No. HR-12E-2153 at the relevant time and caused the

accident.

Balraj son of Raghubir Singh was cross examined at length but nothing has been put to him to seek his explanation as to why there was delay of more than three years in filing the application for compensation though otherwise there is no limitation for filing a petition under Section 166 of the Motor Vehicles Act, 1988. Mahabir Singh, author of the FIR and an eye witness to the occurrence was examined and cross examined. Counsel for the appellant has failed to point out any facts elicited in cross examination of Mahabir Singh to prove that his testimony is not worthy of credence or he was not an eye witness to the occurrence in which Raghubir Singh sustained injuries. There is nothing on record suggestive of the fact that either the claimants or Mahabir Singh, alleged eye witness to the occurrence were known to Parkash or there was any collusion between the claimants, Mahabir and Parkash to replace the vehicle by involving motor cycle No. HR-12E-2153 in place of DL-4SAA-9346. The very fact that the appellant did not raise an issue with regard to his vehicle being falsely involved at the behest of Parkash or motor cycle bearing No. DL-4SAA-9346 was saved, is sufficient to negate plea of the appellant that accident was not caused with his motor cycle. As has been rightly argued by counsel for the respondents that the appellant would not have agreed for involvement of his vehicle in the occurrence at the behest of Parkash as he knew fully well that the vehicle is not insured and liability to pay compensation, if any, would be fastened upon him. In this view of the matter, I find it difficult to differ with the well founded reasoning adopted by the Tribunal rejecting plea of the appellant. The mere fact that Mahabir

Singh in his cross examination has mentioned colour of the motor cycle as red, as against black is not sufficient to discard or disbelieve testimony of Mahabir Singh or accept plea of the appellant that some other vehicle caused the accident. In this view of the matter, I do not find any error much less illegality in findings of the Tribunal on Issue No. 1 upholding plea of the claimants that accident was caused due to rash and negligent driving of motor cycle bearing No. HR-12E-2153 by Rajesh.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

November 29th, 2017
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No