

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

**FAO No.1066 of 2015 (O&M)
Date of decision: 17.11.2017**

Mahender Bhatia

....Appellants

Versus

Parkashi Devi and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Abhilaksh Grover, Advocate,
for the appellant.

Mr. Vikas Chaudhary, Advocate,
for respondent Nos.1 to 3 (claimants).

Ms. Vandana Malhotra, Advocate,
for respondent No.4-Insurance Company.

RITU BAHRI J. (Oral)

Mahender Bhatia-appellant (owner of offending vehicle) has come up in appeal against the award dated 18.11.2014 passed by the Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.10,65,000/- has been awarded in favour of the claimant-respondent No.1 on account of death of Satpal Singh in a motor vehicular accident which took place on 25.04.2012.

Brief facts of the case are that on 25.04.2012, at about 9:00 A.M., Satpal Singh (since deceased) was going towards his grocery shop by hiring a rickshaw. When he reached near Government Press, a Hydro crane bearing registration No. HR-38-P-1670 being driven by Satbir Singh-respondent No.7 (respondent No.1 in claim petition) in a rash and negligent manner came from back side and struck the rickshaw, as a result of which,

Satpal fell down on the road and received injuries. He was taken to Escorts Medical Centre, Faridabad, where he remained admitted till 11.05.2012. Unfortunately, Satpal succumbed to the injuries on 11.05.2012. With regard to the accident, FIR No.159 dated 25.04.2012, under Sections 279/337/304-A IPC was registered at Police Station, Mujessar, Faridabad, against Satbir Singh on the statement of Parmod (eye witness). Consequently, the claimants (respondent Nos. 1 to 3 herein) filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the the accident had taken place due to rash and negligent driving of the offending vehicle by respondent-Satbir Singh and thus, returned finding on issue No.1 in favour of the claimants. This finding has been given on the basis of deposition of Parmod (PW-1), who was an eye witness of the accident and on whose statement, FIR Ex.P1 was registered. Apart from this, claimants have proved on record copy of postmortem report Ex.P2.

The deceased was running a grocery shop along with his sons. In the absence of any documentary proof, income of deceased has been assessed by the Tribunal as Rs.5000/- per month. The Tribunal has further observed that Sunil Kumar (claimant No.1), Manmohan Singh (claimant No.3), Parmod and Seema (respondent Nos.4 & 5 in claim petition) were arrayed as sons and daughter of deceased and admittedly, they were major. Accordingly, they were not held to be dependent upon the deceased. Only, Smt. Parkashi Devi-claimant No.1 was held dependent upon her deceased husband. As there was only one dependent of deceased, therefore, $\frac{1}{2}$ of his total income (Rs.5000/- per month) has been deducted towards his personal

expenses. The dependency of claimants, thus, came to Rs.2500/- per month i.e. Rs.30,000/- per annum. While taking the age of deceased as 56-57 years, multiplier of 8 was applied. Thus, the claimant No.1 was found entitled to compensation of Rs.2,40,000/- (Rs.30,000 x 8). In addition to it, Rs.25,000/- were awarded on account of funeral expenses, Rs.1,00,000/- as loss of consortium and Rs.7,00,000/- for medical expenses incurred during the treatment of deceased. Hence, claimant-respondent No.1 was found entitled to total compensation of Rs.10,65,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization.

While allowing the claim petition, Tribunal has given finding on issue No.3 against the owner and driver of the offending vehicle. It was observed that driver-Satbir Singh was not holding a legal and valid driving licence at the time of the accident and had violated the terms and conditions of the insurance policy. Ultimately, respondent Nos.1 and 2 (respondent No.7 and appellant herein) were jointly and severally held liable to pay the said compensation, whereas M/s Iffco Tokio General Insurance Company Limited (respondent No.4 herein) was exonerated from the liability. Feeling dissatisfied with the impugned award, the owner-appellant has preferred the present appeal.

I have heard learned counsel for the appellant and perused the case file.

Learned counsel for the appellant has not been able to challenge the finding given by Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of offending vehicle by Satbir-respondent No.7 herein. This finding has been rightly given in view of the fact that FIR Ex.P1 was immediately got registered against the driver.

As per postmortem report Ex.P2, deceased was immediately taken to Escorts Medical Centre, Faridabad, where he was medically treated till 11.05.2012.

The appellant (owner) is challenging the finding given by Tribunal on issue No.3. Learned counsel for the appellant has argued that driving licence of Satbir Singh (driver) had been issued from the office of ARTO, Mathura and before employing Satbir Singh as his driver, the appellant had confirmed about validity, effectiveness and genuineness of his driving licence. He had also taken driving test of Satbir Singh. Hence, the insurance company cannot be absolved of the liability to pay compensation to the claimants. Learned counsel has referred to the statement made by Mahender Bhatia-appellant (RW-2), wherein it has been stated that he had taken driving test of Satbir Singh and had examined his driving licence bearing No. 12710/MTR/2004 issued on 20.04.2004, which was valid from 29.03.2012 to 18.03.2015. This licence had been issued from the Licencing Authority, Mathura. He further deposed that he had contacted one of the officials of Licencing Authority, Mathura in connection with the driving licence of Satbir Singh, who confirmed about the validity, effectiveness and genuineness of his driving licence.

This argument of learned counsel for the appellant cannot be accepted as Sunil Kumar, Licensing Clerk, ARTO Office, Mathura (RW-1) has deposed that driving licence No.12710/MTR/04 dated 20.04.2004 (impugned license) had been issued in the name of one Rakesh Kumar Sharma son of Shri Ram Babu Sharma, resident of Jamuna Bagh Road, Sadar Bazar, Mathura. He further deposed that the driving licence Ex.R1, which was in the name of Satbir Singh son of Mahender Singh, had not

been issued by Licensing Authority, Mathura and it was a fake licence. In view of the deposition of Sunil Kumar (RW-1), statement made by Mahender Bhatia-appellant (RW-2) that he had verified the driving licence of Satbir Singh from the Licensing Authority, Mathura and it was confirmed that the said driving licence was effective, is against the facts. Once, as per record of ARTO, Mathura, driving licence Ex.R1 had never been issued, nobody could have verified that this licence was genuine one.

A perusal of the impugned award shows that Sunil Kumar (RW-1) was recalled for further cross-examination and was directed to place on record photocopies of the pages of register having the entries at serial No.12707 to 12716 of 2004. Thereafter, he was again cross-examined on 10.10.2014. The Tribunal has rightly come to a conclusion that driving licence Ex.R1 of Satbir Singh had never been issued by the Licensing Authority, Mathura and it was a fake licence. Certificate Ex.R2 mentioning that driving licence Ex.R1 was fake, had been rightly issued by the Licensing Authority, Mathura. Sunil Kumar (RW-1) has specifically stated in his cross-examination that photocopy of certificate issued on 26.04.2014 by Joint Regional Transport Officer, Mathura in favour of Satbir Singh, was not in the record of the office. Finally, on 10.10.2014, he deposed that certificate Mark-A had not been issued by the Licensing Authority, Mathura. He had placed on record licence No.12710/MTR/04 Ex.R6, which had been issued by the Licensing Authority on 20.04.2004.

After hearing learned counsel for the parties and going through the impugned award, this Court is of the view that the Tribunal has rightly come to a conclusion that the driving licence Ex.R1 was never issued in favour of Satbir Singh by the Licensing Authority, Mathura and the same

was a fake licence. The plea of appellant that he had confirmed and verified the driving licence Ex.R1 from the Licensing Authority, Mathura, has not been found to be genuine. The appellant was bound to make thorough enquiry that the driving (Satbir Singh) had a valid and effective driving licence, which he has failed to do. Hence, the appellant (owner) has been rightly held liable to make payment of compensation. In these circumstances, no liability can be fastened upon the insurance company.

In the light of the above discussion, having examined the impugned award, no illegality, much less perversity, has been found therein warranting interference by this Court. The evidence has been appreciated in the right perspective.

Resultantly, finding no merits, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

17.11.2017
ajp

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