

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

495

FAO No.5083 of 2014
Decided on : 09.10.2017

Jhukub Ali @ Yagub Ali

... Appellant

Versus

Subash Ram and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.Vikram Bali, Advocate
for the appellant.

Mr.Naresh Kumar Advocate for
Mr.Abhinav Gupta, Advocate for respondent No.3.

Avneesh Jhingan , J. (Oral)

Present claim petition has been filed against the award dated 18.09.2013 passed by Motor Accidents Claims Tribunal, Panchkula (in short the 'Tribunal').

2. On 28.2.2011, a horse cart driven by the appellant was struck near Matawala Chowk, Panchkula by rashly and negligently driven truck bearing registration No.HP-12-A-9465 (for short 'the offending vehicle').

3. In the accident, the mule died and the cart was damaged. FIR No.41 dated 01.03.2011 was registered at Police Station Chandi Mandir. Claim petition under Section 166 of the Motor Vehicles Act, 1988 (for the 'Act') was filed. The claim petition was numbered as MACT case No.250. The Tribunal dismissed the claim petition as the claimant had failed to prove the ownership of the mule as well as the price of the mule.

4. Aggrieved by this said award, the present appeal has been filed.

5. Learned counsel for the appellant argued that the Tribunal erred

in dismissing the claim petition as Dr.Satinder Singh, PW-2 deposed before the Tribunal that price of the mule was about Rs.70,000-72,000/-. He contended the Tribunal should have awarded compensation as the appellant has lost his livelihood.

6. Learned counsel for the respondent No.3 argued that the claim made by the appellant was not substantiated by any evidence before the Tribunal and hence, the Tribunal rightly dismissed the claim petition.

7. I have heard learned counsel for the parties, perused the paper-book and the record.

8. The issue no.1 framed by the Tribunal with regard to rash and negligent driving was decided in favour of the appellant. One thing is proved that there was an accident as a result of rash and negligent driving of the offending vehicle. But in order to succeed, the onus was on the claimant to prove firstly that he owned the mule who died in the accident; and secondly that what was the price of the mule.

9. In the present case, the only reliance is upon the deposition of Dr.Satinder Singh PW-2, his evidence nowhere enhances the case of the appellant. The doctor in no circumstances could have deposed about the ownership of the mule. The veterinary doctor by and large would not be indulging in sale and purchase of animals, therefore, a price quoted by the doctor, cannot be taken to be proof of the market price of the mule. In such circumstances, the claimant had badly failed to establish his case. Not only this, the present award disposes of two claim petitions; one was with regard to compensation of death of mule and the other was with regard to injury suffered by the appellant. Before the Tribunal, the appellant even failed to substantiate that he suffered any injury in the accident. The said claim

petition was also dismissed.

10. Finding no merit in the present case, the same is dismissed and the award dated 18.09.2013 passed by Motor Accidents Claims Tribunal, Panchkula is upheld.

[Avneesh Jhingan]
Judge

09.10.2017
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No