

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

F.A.O No. 5550 of 2015

Date of decision:- 18.09.2017

Jagdip Singh

...Appellant

Versus

Binder Kaur and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Binderjit Singh, Advocate
for the appellant.

RITU BAHRI J.

The present appeal has been preferred by the appellant (for short 'the appellant') against the award dated 15.05.2015 passed by the learned Motor Accident Claims Tribunal, Bathinda (for short, 'the Tribunal') whereby the appellant was directed to pay the compensation of Rs.7,85,000/- to the claimants-respondents on account of death of Baldev Singh.

The facts in brief are that on 21.09.2013 Baldev Singh @ Noora (now deceased) was coming to Talwandi Sabo, via Behniwal on his motor cycle Hero Honda CD Dawn, colour red bearing RC No. PB-44-A-9850 in connection with some work and his brother Sukhcharan Singh @ Bhola Singh along with his cousin Angrej Singh were following him on other motorcycle at a distance of about ½ k.m. When they reached on kacha passage Singhe Wala, within the limits of village Jaga Ram Tirath, then a car bearing No. HR-29-0123 driven by appellant-respondent, came very rashly negligently and at a high speed, from the side of Talwandi Sabo and hit the motorcycle of the deceased. The driver of the offending vehicle fled

away from the spot on his car. Due to this accident, Baldev Singh @ Noora fell downwards and he received multiple injuries and he died on the spot. On the statement of Sukhchain Singh, F.I.R No. 198 dated 21.09.2013 with P.S. Talwani Sabo was got registered against the appellant under Sections 304-A/279/427 IPC.

The learned Tribunal after going through the entire evidence took the salary of the deceased at Rs.4400/- per month and deducted 1/4th towards dependency. The dependents of the claimants comes out to be Rs.39,600/- per annum. Thereafter, the learned Tribunal applied the multiplier of 16 and gave Rs.1 lacs to the wife towards loss of consortium. Rs.25000/- were awarded towards funeral expenses and Rs.25,000/- were awarded towards loss of estate and loss of general damages and loss of estate.

It is not in dispute that the car of the appellant was not insured with any insurance company and thus the appellant has been held entitled to give compensation to the claimants.

Learned counsel for the appellant contends that the learned Tribunal has erred in law in treating CW1 Sukhcharan Singh as an eye witness of the alleged accident, as he was real brother of the deceased. Learned counsel submits that the learned Tribunal fell in error by concluding the responsibility of the appellant for causing the accident merely on the basis that F.I.R has been registered against the appellant and he has been charge-sheeted. Learned counsel submits that the appellant has fully proved that his car was not involved in the accident rather, Eicher Tractor owned by Satti was involved in the accident and the appellant has

been falsely implicated by Satti in connivance with Sukhcharan Singh and Angrej Singh. He has further submitted that there was no dent on the car of the appellant.

Learned counsel further submits that the learned Tribunal has wrongly taken the income of the deceased at Rs.4400/- per month by treating him to be a casual labourer.

The first argument of learned counsel for the appellant that the appellant has been falsely implicated is liable to be rejected, as all the witnesses examined by the appellant were not eye witness of the accident in question.

Reference at this stage can be made to deposition of R.W.2 Jagtar Singh (father of the appellant) who admitted that the accident in question took place at 10:30 and at that time, they were returning after purchasing insecticides. Further F.I.R has been lodged on the same day and it has been got recorded by the eye witness Sukhcharan Singh who was cross examined at length but nothing could be brought on file to suggest that he was not accompanying Baldev Singh at the time of accident. Thus, the facts of registration of F.I.R and trial of the accused in a criminal Court were held to be sufficient to arrive at a conclusion that the accident had taken place due to rash and negligent driving of the driver, as held by this Court in a case of ***Lakhu Singh vs. Uday Singh, 2008(1) RCR (Civil) 805***

Further once the F.I.R has been got registered on the same day and Post Mortem of the deceased was also conducted which clearly shows that the deceased died on 21.09.2013, the argument of the learned counsel for the appellant that the appellant has been falsely implicated in the present

case, is dismissed. The appellant has failed to prove on record that his car was not involved in the accident. The eye witness has clearly stated that the deceased died due to the rash and negligent driving of the appellant and no doubt the eye witness was real brother of the deceased but statement of close witness is not to be discarded only on the ground of close relationship.

The argument of learned counsel for the appellant that the Tribunal wrongly taken the income of the deceased at Rs.4400/- per month, as the claimants have failed to prove on record with regard to the income of the deceased is also liable to be dismissed in view of the detailed reasoning given by this Court in a case of **Santosh Devi v. Kailash Chand and others, decided on 14.07.2017 in FAO No. 3743-2016.**

In view of the above factual position, no ground is made out to interfere in the impugned order/award dated 15.05.2015.

Accordingly, the present appeal is dismissed

18.09.2017

G Arora

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No