

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5905 of 2016 (O&M)

Date of Decision: - 06.07.2017

M/s Ramanjit Singh and Co.

.....Appellant

Vs.

Munwa Devi and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Hitesh Kaplish, Advocate, for the appellant.

RITU BAHRI, J. (ORAL)

CM No.20196-CII of 2016

For the reasons stated in the application, delay of 1062 days in filing the appeal is condoned.

Application stands disposed of.

CM No.20197-CII of 2016

For the reasons stated in the application, delay of 42 days in re-filing the appeal is condoned.

Application stands disposed of.

FAO No.5905 of 2016

Present appeal has been filed by M/s Ramanjit Singh & Company, who is owner of offending tractor No.PB-12G-8372, against an Award dated 19.01.2013, passed by the Motor Accident Claims

Tribunal, Chandigarh (hereinafter to be referred as 'the Tribunal'), whereby the claim petition was allowed and compensation of ₹6,48,992/- has been granted to the claimants and the recovery rights have been given to the Insurance Company after making the payment of compensation to the claimants.

In the present appeal, the factum of accident and negligence are not in dispute. The following issues were framed by the Tribunal: -

- “1. Whether Sanichar Mandal died in road side accident which took place on 01.08.2009 at about 5.50 am near small chowk of Sector 39 and 40, Chandigarh because of rash and negligent driving of respondent No.1 while driving vehicle bearing registration No.PB-12-G-8372?
2. If issue No.1 is proved in affirmative to what amount of compensation the claimants are entitled and from whom? OPP.
3. Whether the driver of offending vehicle was not holding a valid and effective driving license at the time of accident, if so, its effects? OPR.
4. Relief.”

On issue No.1, after going through the evidence on record, the Tribunal has held liable Gurbhag Singh (respondent No.6 herein) for the accident which took place on account of his rash and negligent driving. Moreover, Ex.P-2 is a copy of post mortem report, which shows that Shanichar Mandal died as a result of hamorrhagic shock due to laceration of liver as a result of injuries described. History of the accident mentioned in the post-mortem report also corroborates the evidence of PW-1 Rajesh Kumar. While deciding Issue No.1, learned JMIC, vide his order dated 25.11.2012, corrected the number of the vehicle in the charge-sheet from PB-11-G-8322 to PB-12-G-8372.

As per medical examination of the deceased, the age of the deceased was recorded as 45 years as there is no other record of age of deceased was available. No salary certificate has been proved, so income of the deceased had been taken as that of a daily wager, after considering the minimum rates of a daily wager in the year 2009, was assessed at ₹3,500/- per month. The compensation was granted to the claimants are as under -

<i>Sr.No</i>	<i>Heads</i>	<i>Amount Granted</i>
(i)	Income	₹3,500 x 12 = ₹43,000/- per annum
(ii)	Addition 30% as annual income Deduction 1/3 rd on personal expenses	₹43,200 + ₹12,960 = ₹56,160
(iii)	1/5 th deduction as per judgment in <u>Sarla Verma Vs. Delhi Transport</u>	₹56,160 - ₹11,232 = ₹44,928/- P.A.
(iv)	After applying the multiplier as per age	₹44,928 x 14 = ₹6,28,992/-
(v)	Loss of Estate	₹5,000/-
(vi)	Funeral Expenses	₹5,000/-
(vii)	Loss of consortium	₹10,000/-
(viii)	Total	₹6,48,992/-

Ex.R-1 is the driving license of Gurbhag Singh, which was valid from 14.09.2010 to 13.09.2030 and accident occurred on 01.08.2009. The driving license of respondent No.1 valid on the date of accident has not been produced. As such, the driver-respondent No.1 and the owner-respondent No.2 of vehicle No.PB-12-G-8372 were jointly and severally liable to pay the compensation amount and Insurance Company was absolved from its liability. Insurance company was directed to pay the compensation amount firstly to the claimants and thereafter, the Insurance Company would recover the same from the owner and driver through right of recovery.

Learned counsel for the appellant has argued that Insurance Company has been wrongly given the right to recover the compensation from the owner as initially in the FIR the number of tractor was given as PB-11-G-8322 but later on the number was changed to PB-12-G-8372 and this fact was brought in the amended charge-sheet. This exchange will make itself doubtful that the tractor owned by the appellant was in the said accident.

Heard learned counsel for the parties.

The above-said argument of the appellant is liable to be rejected as perusal of the impugned Award clearly shows that while framing Issue No.1 on 03.06.2014, the number of registration of the vehicle was PB-12-G-8372. Even the copy of registration certificate (Ex.P-4) has been placed on record by the claimants. On Issue No.4 this aspect has been considered by the Tribunal that after registration of the FIR No.327 dated 01.08.2009, under Sections 279 and 337 IPC, investigation and verification of the tractor No.PB-12-G-8372 was done from RTA, Patiala and it was found to be a truck. Later on, it came to light from the record of Police Control Room, Chandigarh that tractor No. was PB-12-G-8372 but inadvertently it was announced as PB-11-G-8322. This mistake was committed by SI Dharambir Singh, who has recorded the wrong number in the FIR and he was placed under suspension, vide order dated 29.8.2009 (Ex.P-8) and subsequently thereafter he was reinstated vide order (Ex.P9). The number of the vehicle was corrected by JMIC, vide order dated 25.11.2012. Thereafter, in the amended charge-sheet (Ex.P11) the number of the offending vehicle was mentioned as PB-

12-G-8372. The tractor was taken into possession vide recovery memo (Ex.P-13) and mechanical examination was also conducted of tractor No.PB-12-G-8372 as per report (Ex.P-14).

Moreover, from the above-said finding it is cleared that the tractor impounded and which has caused the accident carries No.PB-12-G-8372. Further, no evidence was led by the driver to show that he was having the valid and effected driving licence.

Since the impugned Award dated 19.01.2013, passed by the Tribunal, does not require any interference by this Court, therefore, the present appeal filed by the present appellant stands dismissed.

July 06, 2017
anil/naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No