

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6389 of 2016 (O&M)

Date of Decision: 20.11.2017

Secretary Transport Punjab and anotherAppellants

Vs.

Jodh SinghRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ashok Kumar Singla, Sr.DAG, Punjab, for the appellants.

Mr.K.S.Mamrat, Advocate, for the respondent.

RITU BAHRI, J. (ORAL)

CM No.21351-CII of 2016

For the reasons stated in the application, delay of 249 days in filing the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the owner of the offending vehicle (for short 'the appellants'), against award dated 03.09.2015, passed by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') vide which compensation to the tune of Rs.1,41,885/- was awarded to the claimants in the accident took place on 11.10.2009.

The claimant-Jodh Singh was 39 years of age at the time of accident and he was Conductor in Punjab Roadways, Chandigarh which met with the accident. Due to rash and negligent driving of the bus driver Jagjit Singh, the accident took place and he hit the bus with the Truck trolly. Due to the said accident, the driver of the said bus died later on. After the accident, the claimant/respondent was taken to Civil Hospital, Dhanola and thereafter, he was referred to GMCH, Sector 32, Chandigarh where the left leg of the claimant was operated and doctors inserted rod in the leg. An FIR

No.109 P.S.Dhanola, District Barnala was also registered against the driver of the bus.

The appellants have filed their written statement took the preliminary objections that the claim petition is not maintainable. The accident took place due to rash and negligent driving of the driver of the truck trolly and the driver of the bus had died in the accident. The claimant had not impleaded the driver and owner of the truck trolly as necessary parties, who were only responsible for causing the accident. On merit it was submitted that claimant was not an employee of the respondent directly. He was an employee by his service provider i.e. XEAM Ventures Pvt Ltd. The respondents/appellants only hired the services of the claimant through service provider who was his actual employer. An FIR No.40 dated 20.06.2012, P.S.Ajitwal District Moga was also got registered against the bus driver, who died at the spot on 11.10.2009. In this manner, two FIRs have been registered against the driver of the bus.

The findings of incident attributed to the driver of the bus has been rightly given by the learned Tribunal. The appellants/respondents has only made the ground that it was head on collision and liability of 50% should have been fixed on each vehicle.

A perusal of the Award shows that RW-1 Major Singh has also admitted that the injuries were sustained by the claimant/respondent in the accident, which were referred in Ex.PX and claimant being the eye witness had also substantiated the fact that the accident occurred on account of the negligence of the driver of the bus but it has not been proved in any manner that the negligence was of the driver of the truck troll.

So in view of the above, the orders of the learned Tribunal does not reflect any material irregularity or perversity which warranting interference. Hence the present appeal stands dismissed.

(RITU BAHRI)
JUDGE

20.11.2017

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No