

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

FAO No.3713 of 2017(O&M)

Date of decision: 17.8.2017

Oriental Insurance Co. Ltd.

.....Appellant

VERSUS

Karamjit Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.N. Singal, Advocate for the appellant.

REKHA MITTAL, J.

The present appeal directs challenge against award dated 24.01.2017 passed by the Motor Accidents Claims Tribunal, Faridkot (in short 'the Tribunal') whereby compensation has been awarded in regard to death of Rajpal Singh in a motor vehicular accident that took place on 03.11.2015 on Muktsar road Kotkapura.

The sole submission made by counsel for the appellant is that testimony of Karamjit Kaur, alleged eye-witness to the occurrence and one of the claimants in the case is in contradiction to first version recorded by Karamjit Kaur for lodging FIR No.203 dated 03.11.2015 under Sections 304-A, 279, 337, 427 IPC at Police Station City, Kotkapura, therefore, findings recorded by the Tribunal on issue No.1 are erroneous and liable to be set aside. In addition, it is argued that the FIR registered at the behest of Karamjit Kaur – claimant has been marked as exhibit at the behest of the claimants, therefore, same can be read into evidence for the purpose of deciding issue of rashness and negligence on the part of bus bearing

No.PB-07-AE-8830 driven by Angrej Singh. In support of his contention, he has referred to judgments of this Court **Habib Vs. Mahesh Kumar and others, 2014 (1) PLR 750** and **Jyoti Ram Vs. Ashok Bansal and others, 2012(1) RCR (Civil) 940.**

I have heard counsel for the appellant, perused the paper-book particularly the award.

As per plea of the claimants, on 03.11.2015, Rajpal Singh (since deceased) along with his wife Karamjit Kaur and Gurmeet Kaur wife of Darshan Singh was travelling in Indica Car bearing No.DL-4CU-7850 driven by Rajpal Singh. Karamjit Kaur was sitting by the driver side and Gurmeet Kaur was sitting on the rear seat of the car. At about 11:30 AM, when they reached on G.T. road near Gurdwara Sahib, bus bearing No.PB-07-AE-8830 of Punjab Roadways Hoshiarpur driven by Angrej Singh came from opposite side at a very high speed and in a zig zag manner. Rajpal Singh tried to take his car on the katcha berm of the road but the bus hit car and all the occupants of car sustained multiple serious injuries. The injured were taken to Civil Hospital, Kotakpura where Rajpal Singh succumbed to his injuries.

Karamjit Kaur appeared in the witness box and tendered into evidence her duly sworn affidavit Ex.PW1/A and reiterated version of the claimants put forth in the petition. Counsel for the appellant has not placed on record testimony of Karamjit Kaur nor has made any submission that in her cross examination, respondents before the Tribunal have been able to elicit any such fact favourable to the driver, owner and insurer of the offending bus. Counsel for the appellant has sought to draw some mileage from some contradiction in the first version given in the FIR vis-a-vis statement of Karamjit Kaur with regard to direction in which the deceased

had taken his car at the time of occurrence. On a query raised by the Court counsel has fairly informed that any such fact recorded in the FIR was not put to Karamjit Kaur in order to seek her explanation with regard to the contradiction in her version recorded in the FIR vis-a-vis what had been stated by her in her affidavit Ex.PW1/A. Perusal of the FIR Annexure A-1 would indicate that claimant Karamjit Kaur has indicted driver of the bus for causing the accident due to his rash and negligent driving and for that reason, FIR was registered for offence under Section 304-A, 279, 337, 427 IPC against driver of the offending bus. Counsel has not disputed that on the basis of FIR registered at the behest of Karamjit Kaur, driver of the bus has faced criminal trial for committing the offence charged against him. Under the circumstances, it is difficult to accept contention of the appellant that in view of some contradiction between the first version recorded in the FIR and statement of Karamji Kaur recorded before the Tribunal, findings recorded by the Tribunal on issue No.1 can be faulted with.

The two judgments relied upon by counsel for the appellant were rendered in view of peculiar facts and circumstances of the cases and the same cannot be used as a precedent for deciding the matter in question. As such, the appellant cannot derive any advantage to its contention from the referred authorities.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine.

AUGUST 17, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no