

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 3940 of 2017 (O&M)

Date of decision : July 3, 2017

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Sushil @ Sonu and another

.....Appellants

Versus

Smt. Sito and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Ved Parkash, Advocate for the appellants.

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RITU BAHRI, J

C.M No. 12824-CII of 2017

For the reasons mentioned in the application, delay of 279 days in filing the present appeal is condoned.

C.M is allowed.

FAO No. 3940 of 2017

This appeal has been filed by the appellants against the award dated 17.5.2016 passed by the Motor Accident Claims Tribunal, Panipat whereby the appellants were held liable to make the payment of compensation to the claimants jointly and severally

for causing the accident which took place on 10.4.2013, in which Ravi a 20 years old boy died.

On 10.4.2013, Ravi was returning on his motorcycle bearing registration no. HR-06-J-6226 along with his three friends namely Parveen, Deepak and Ajit after offering prayer in a temple. However, on the way, he met with an accident near Village Chhichhrana District Panipat. As per the claim petition, the accident was caused by Sushil @ Sonu, petitioner (respondent no.1 in the claim petition) with a blue coloured tractor which he was driving in a rash and negligent manner. The said tractor was owned by petitioner no.2 Baru (respondent no.2 in the claim petition).

Ved Singh and Smt. Sito wife of Ved Singh, parents of Ravi deceased filed claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of death of their son, Ravi who was about 20 years old at the time of his death.

Upon notice, Sushil @ Sonu filed written statement contesting the claim petition and his plea was that the accident had occurred with some other vehicle but the claimants had falsely implicated him. Baru filed a separate written statement and his plea was that he had already sold out the tractor in question to Rajesh son of Zile Singh of Village Bijawa, Tehsil Israna, District Panipat and is, therefore, not liable to pay compensation.

On the pleadings of the parties, following issues were framed:

1. Whether Ravi son of Ved Singh died in a road side

accident on 10.4.2013 on account of rash and negligent driving of tractor make Eicher-312 bearing Engine no.55128521403 and Chassis no.15111728038 driven by respondent no.1 as alleged in the petition? OPP.

2. If issue no.1 is proved, whether the petitioners are entitled to compensation if so to what effect and from whom? OPP.

3. Relief.

In support of their case, the claimants examined PW-1 Ved Singh, claimant no.1 and PW-2 Suresh and they have also tendered documents viz copy of report Ex.P1 filed by police under Section 173 of the Code of Criminal Procedure, copy of site plan Ex.P2 prepared during investigation, copy of charge framing order Ex.P3, Copy of FIR Ex.P4 and copy of post mortem report Ex.P5.

In rebuttal Sushil appeared in the witness box as RW-1 and tendered in evidence certified copy of statement Ex.R-1 of Surender who had lodged the FIR Ex.P-4 certified copies of statements Ex. R-2 to Ex. R-4 of three persons namely, Ajit Deepak and Parveen who were travelling with the deceased on motorcycle; certified copy of judgment Ex. R-5 vide which Suresh has been acquitted in criminal case and copy of driving licence Ex.R-6. Baru merely tendered in evidence photocopy of registration certificate of tractor Ex.R-7.

The Tribunal, after going through the evidence on record and hearing the counsel for the parties, observed that Sushil @ Sonu

in his cross-examination indicated that a compromise had taken place between him and the witnesses examined in the criminal case. Consequently it was held that Sushil @ Sonu had earned acquittal and the witnesses have not supported the allegations of rash and negligent driving against him due to compromise. He further indicated in his deposition that he had not moved any application to superior authority regarding his false implication in the accident. Therefore, the very fact that Sushil @ Sonu instead of complaining to the superior authorities regarding his alleged false implication had preferred to strike a compromise with the witnesses in the criminal case meaning thereby that he had caused the accident with tractor in question due to his rash and negligent driving leading to death of Ravi. Hence, issue no.1 was decided in favour of the claimants.

The claim petition was allowed and claimant no.2 Sito was only held entitled to a compensation of **₹8,82,400** along with interest @7.5% per annum from the date of institution of the claim petition till its realization, which was ordered to be paid jointly and severally by respondents no. 1 & 2 being the driver and registered owner of the offending vehicle. The income of the deceased was assessed as ₹5200/- per month that was equivalent to the minimum wage payable to the unskilled labourer in the year of accident. To this amount 50% addition was given as future prospects. Thus, in this manner income of deceased for calculating compensation was assessed at ₹7800/- (₹5200+2600) per month. As the deceased was a bachelor, therefore, 50% of his income i.e ₹3900 was to be treated

as the dependency of his mother Smt. Sito, claimant no.2. So, the annual dependency of claimant no.2 came to ₹46,800 (3900x12). Multiplier of 18 was applied and the compensation came to ₹8,42,000. An amount of ₹25,000 was awarded as loss of consortium, ₹5000 towards funeral expenses and an amount of ₹10,000/- was awarded as litigation expenses. Hence, in this manner, the claimants were held entitled to a compensation of ₹8,82,400/-

After going through the award, I am of the opinion that both the petitioners (respondents no. 1 & 2 in the claim petition) have rightly been held responsible for the payment of the compensation. In view of all that has been discussed above, present appeal is dismissed.

July 03, 2017
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	yes
Whether reportable	no