

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5023 of 2017 (O&M)
Date of Decision: 06.09.2017

Jinder Singh alias Joginder Singh

... Appellant

Versus

Simarjit Kaur and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sandeep Kumar Bokolia, Advocate,
for the appellant.

RAJIV NARAIN RAINA, J.

1. The offending tractor bearing registration No.PB-29/C-6971 was not insured and the a claim for compensation arising from the death succeeded in the Motor Accident Claims Tribunal The liability fell on the owner-cum-driver. The appellant is the owner and driver of the Tractor that caused the fatal accident.

2. The principal argument raised in appeal by the owner is that he has been acquitted by the Court of Sub Divisional Judicial Magistrate, Nihal Singh Wala vide judgment dated November 01, 2016 in FIR No.79 dated July 24, 2011 under Sections 304-A, 279, 337, 338 & 427 IPC registered at Police Station Nihal Singh Wala on the statement of Amritpal Singh.

3. Amritpal Singh is brother of the deceased and was riding pillion on the ill fated motor cycle at the time of the accident. The tractor struck against the motor cycle which caused the accident at about 8.30 PM at a distance of 3-4 acres away from village Khotte. The tractor was driven in a

rash and negligent manner. The finding of rash and negligent driving has been recorded by the learned Tribunal relying on the testimony of the eye-witness PW-2 Amritpal Singh. The owner Jinder Singh alias Joginder Singh did not enter the witness box and sent his son Manpreet Singh to depose as RW-1 under his father's power of attorney. Manpreet Singh was not an eye-witness of the accident and therefore his deposition in favour of his father has hardly any evidentiary worth.

4. The learned Motor Accident Claims Tribunal, Moga vide the impugned award dated May 01, 2017 has held that acquittal in the criminal case is of no consequence and has no effect on the merits of the claim because the standard of proof in both the cases is entirely different. In a criminal case, the prosecution has to prove the charge beyond the shadow of reasonable doubt whereas in a civil case or claim case the claimant has to prove his case on the principle of preponderance of probabilities. The learned Tribunal has held on the settled legal position that the accident has to be proved independently in both the cases. Negligence has to be decided on the basis of evidence adduced by the parties which in the present case leans heavily against the appellant on the statement of PW-2 Amritpal Singh.

5. Once liability is established on the appellant I have then no reason to differ with the quantum of compensation awarded under different conventional heads of claim for pecuniary and non-pecuniary damages. The age of the deceased was taken as 34 years, and the income of the deceased reduced to ₹6000/- from the claimed amount of ₹15000/- income per month that the deceased as alleged by the claimants earned as a Mason. The

multiplier of 16 applied to the case is the proper figure and the compensation worked out thus comes to ₹8,90,000/- which has been apportioned in the manner done by the learned Tribunal for the widow, minor daughter and parents of the deceased left behind.

6. On hearing the learned counsel and perusing the papers placed in the file this Court is of the considered view that the present appeal is devoid of merit and is accordingly dismissed.

7. However, this order will not affect the rights of the claimants to enhancement of compensation in case they approach this Court for relief, in which case, the claim will be examined independently on the merits without reference to this order.

(RAJIV NARAIN RAINA)
JUDGE

06.09.2017
manju

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>