

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1301 of 2005
Date of decision:- 20.03.2018

Shish Pal ...Appellant

Versus

Sunil Kumar and others ...Respondents

FAO No.1325 of 2005

Arun Kumar ...Appellant

Versus

Sunil Kumar and others ...Respondents

FAO No.1326 of 2005

Kushal Singh ...Appellant

Versus

Sunil Kumar and others ...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ram Chander, Advocate, for the appellant.

RITU BAHRI J. (Oral)

Present appeals have been preferred by the claimants-appellants (for short 'the appellants'), against award dated 23.11.2004, passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal') vide which their claim petitions had been dismissed.

On 21.03.2001, Shish Pal one of the appellants/claimants started his journey from Delhi to Ambala at 12:15 A.M. and he was driving canter bearing No.DL-1M-0461 at moderate speed. Arun was cleaner on the said canter and the canter was loaded with Namkeen and had to go to

Ambala for its unloading. Helper Shish Pal was also travelling in the said canter. At about 4:00 a.m. when they reached near village Umri on G.T.Road, in the meantime a trolly bearing No.HR-46-1500 which was going ahead of their canter was driven by respondent No.1 Sunil Kumar rashly and negligently to whom appellant driver of the canter gave horn for overtaking the same but the driver of the trolly all of a sudden applied its breaks abruptly and struck into the vehicle of the appellants. As a result thereof, injuries sustained by the claimants. During the course of investigation driver of the trolly had been found negligent and he had caused the accident and consequently he was challaned by the Police and was facing trial in case FIR No.80 dated 21.03.2001 for the offence under Sections 379/337/427 IPC. The claim petitions have been filed by the claimants for getting expenses on their medical treatment of injuries suffered by them.

After issuing notice, written statements have been filed by the respondents and after framing of issues, the learned Tribunal had dismissed the claim petitions of the appellants by observing that PW-3 Arun Kumar while appearing in the witness box said that canter was being driven at normal speed by Kushal Singh and when Kushal Singh was in the process of overtaking the trolly, the trolly driven applied and hit trolly side into the canter due to which the canter rammed into ditches causing injuries to him and other occupants. It has further been observed that accident was caused when trolly driver applied brakes suddenly, even then it was clear that the canter driver failed to control its vehicle and hit the trolly from behind. There was always a possibility of sudden brakes being applied by the vehicle going in front. The case of the appellant was wholly fallacious. From the cross-

it was hit by the trollea when the canter itself was overtaking the trollea. However, in no way the vehicle like a canter can fall on the left side, if it was hit while overtaking as it would necessarily be hit on the left side only and in that case, the possibility of falling on left side was ruled out and in that eventuality, it would rather fall on its right side. The learned Tribunal however examined the photocopy of the records of the criminal trial. After going through the evidence and materials on record, no negligence of the troalla has been found and claim petitions of the applicants/appellants were dismissed by the learned Tribunal.

So in the light of the discussion, the orders of the Courts below does not reflect any material irregularity or perversity which warranting interference. Hence the present appeals stand dismissed.

20.03.2018
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(RITU BAHRI)
JUDGE

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