

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

FAO-921-2006

Date of decision: 27.04.2018

Dalwinder Singh**...Appellant****V/s.****Jarnail Kaur and others****...Respondents****CORAM: HON'BLE MS. JUSTICE RITU BAHRI.**

Present: Mr. Gopal Mittal, Advocate for the appellant.

Mr. Ashish Gupta, Advocate for

Mr. R.K. Gupta, Advocate for respondent No. 1.

RITU BAHRI, J. (Oral).

The present appeal has been filed by respondent No. 3- Dalwinder Singh, who is the owner of the vehicle, against the award dated 10.01.2006 passed by learned Motor Accident Claims Tribunal, Fatehgarh Sahib (for short 'the tribunal') and compensation of Rs.6,00,000/- has been awarded to the claimants on account of death of Gurmukh Singh who died in a road accident which took place on 19.01.2003 when he was returning home from his field via pucca road, mini bus No. PAB/9059 came and struck against him which resulted into serious injuries and finally he died. In the claim petition, notice was given to respondent No. 1 Harjit Singh, the driver of the offending vehicle, and he had filed the written statement claiming that no accident had taken place. Respondent No. 2 Manjit Kaur filed her written statement and she stated that she was originally the owner of mini bus No. PAB/9059 and thereafter sold it to Dalwinder Singh by an

agreement dated 23.11.2002 and he is in possession since then. Dalwinder Singh-respondent No. 3 is the owner of mini bus No. PAB/9059 and filed his written statement taking the plea that Gurmukh Singh had never met with an accident on 19.01.2003. Following issues were framed:-

- 1. Whether Gurmukh Singh died on 19-1-2003 due to rash and negligent driving of Mini bus No. PAB/9059 driven by respondent No. 17 OPA.*
- 2. Whether Dalwinder Singh i.e. respondents N. 3 was driving bus bearing registration No. PAB/9059 at the time of the accident? OPR-1.*
- 3. To what amount of compensation and from whom the claimants are entitled to? OPA*

On issue Nos. 1 and 2, findings have been returned in favour of claimants that accident took place on account of rash and negligent driving by respondent No. 1 Harjit Singh. This finding is based on FIR No. 7 dated 20.01.2003 Ex.RW4/D which was lodged by PW-2 Amarjit Singh at Police Station Khamanon. PW-2 Amarjit Singh corroborated the version given in the FIR. There was nothing to discard his statement. RW-6 Harjit Singh i.e. the driver of bus had appeared and in his cross-examination he admitted that he was driver of the mini bus of Dalwinder Singh and on 19.01.2003, he took the bus and parked it at Ucha Pind but he denied that any accident had taken place. RW-4 Dalwinder Singh appeared and stated that he was the owner of mini bus No. PAB/9059 and Harjit Singh was driving the bus when accident had taken place. Keeping in view that FIR No. 7 dated 23.01.2007 Ex. RW4/D was registered against the driver and the challan has been presented against him coupled with site plan Ex. Rx and post mortem report Ex. P7 which shows that death on account of injuries sustained, the findings are rightly returned.

Learned counsel for respondent No. 1 submitted that as per judgment dated 15.12.2010 passed by the Chief Judicial Magistrate Fatehgarh Sahib in FIR No. 7 dated 23.01.2007 under Sections 279 and 304-A IPC, Police Station Khamanon, Harjit Singh had been convicted under Sections 279 and 304-A for 1½ years. These facts have not been denied by learned counsel for the appellant. Keeping in view the conviction of the driver, the finding recorded by the Tribunal on issue No. 1 does not require any interference and hence the appeal filed by the owner is dismissed.

(RITU BAHRI)
JUDGE

April 27, 2018
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No