

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

FAO No.2840 of 2008 (O&M)

Date of decision: 08.05.2018

Barfo Devi

....Appellant

Versus

Hoshiyar Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the appellant.

Mr. Vinod Gupta, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal is directed against the Award dated 27.03.2008 passed by the Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') dismissing the claim petition filed by the claimant-appellant seeking compensation on account of death of her son namely Dinesh in a motor vehicular accident which took place on 06.07.2006.

Brief facts of the case are that on 06.07.2006, claimant-Barfo Devi along her son Dinesh (since deceased) and 8-10 other passengers were going to Ballabgarh in a three wheeler bearing registration No. HR-38-L-1134. The said vehicle was being driven by Hoshiyar Singh-respondent No.1 in a rash and negligent manner. All the passengers requested respondent No.1 to slow down the speed of three wheeler, but he did not pay any heed. When they go ahead, the three wheeler struck against a truck, as a result of which it turned turtle. In the accident, Dinesh received injuries

and died. Consequently, the claimant-appellants filed a claim petition before

the Tribunal.

After going through the entire evidence led by the parties, the Tribunal has dismissed the claim petition.

In the present case, FIR had had been registered against an unknown three wheeler. No evidence was led by the claimant to show that after presentation of challan, driver of offending vehicle was facing any trial. In his cross-examination, driver-Hoshiyar Singh had stated that he was facing trial. But no evidence was produced from the criminal Court to show that he was actually, facing the trial. In the absence of any evidence, finding on issue no.1 could not be given against the driver that he was negligent in driving the offending vehicle. Even the claimant, in her initial statement before the police, had stated that she did not know the number of offending vehicle. But, subsequently, she supplied the number of the said vehicle. Since the material evidence with regard to negligence has been kept away from the Tribunal, finding on issue No.1 does not require any interference.

Accordingly, after going through the impugned Award, this Court is of the view that in the absence of any cogent and convincing evidence with regard to negligence of the driver, the Tribunal has rightly dismissed the claim petition. No ground is made out to interfere therein.

Dismissed.

(RITU BAHRI)
JUDGE

08.05.2018
ajp

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