

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-824-2018 (O&M)

Date of Decision:-03.08.2018

Vinod Sharma

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner.

Ms. Simranjeet Kaur, AAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

Custody certificate has been filed today by the learned State counsel, which is taken on record.

By way of filing this petition, the petitioner assails judgment dated 20.01.2018 passed by learned Additional Sessions Judge, Gurdaspur whereby while upholding his conviction under Section 304-A of Indian Penal Code, 1860, he has also been held guilty for committing offence under Section 279 of Indian Penal Code, 1860.

In the present case it is admitted fact that the deceased alongwith 5-6 other passengers was travelling in an auto rickshaw and was sitting on the front seat along with driver whereas it is only the driver who is

supposed to be seated on the front seat. It is also borne out that auto rickshaw had been hit from behind by the offending vehicle. The aforesaid facts indicate that it is a case where the driver of auto-rickshaw and also the passenger who was sitting alongwith the driver have also, in a way, contributed in causing the accident inasmuch as the deceased could not have been sitting properly and securely on the seat meant for a single person i.e. for driver and it was most likely that he would have been thrown out of the vehicle even with the lightest impact. While contributory negligence cannot be taken to be a defence or a circumstances to set aside offence punishable under Section 304-A of Indian Penal Code, 1860 but the same can be taken into consideration while determining the quantum of sentence to be imposed. In the present case the petitioner is stated to be aged about 56 years and is not a previous convict.

Having regard to the facts and circumstances of the case and bearing in mind the age of the petitioner, to my mind it is a fit case for reduction of sentence. While the conviction of the petitioner is maintained as no infirmity is found in the findings of guilt as affirmed by learned lower Appellate Court which are based on proper appreciation of facts, the sentence of imprisonment as imposed by the learned Lower Appellate Court, Gurdaspur is reduced from “*two years*” to “*eight months*” subject to the condition that the petitioner pays an additional compensation amounting to ₹1 lakh to the legal heirs of the deceased within two months from today.

The said compensation shall be deposited in the trial Court with advance notice to legal heirs of deceased. It is however, clarified that the aforesaid compensation shall be independent of the compensation, if any

awarded by the Motor Accident Claims Tribunal, Gurdaspur and it is not to be adjusted in any manner.

The petition is dismissed with aforesaid modification in sentence.

03.08.2018
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No