

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

FAO No. 3534 of 2010 (O&M)
Date of decision: 02.02.2018

Mesro Devi and others

.... Appellants

Versus

Vinod Kumar (dead) through LRs and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Govind Chauhan, Advocate for
Mr. Vijay S. Kajla, Advocate
for the appellants.

Mr. Sawan Chaudhry, Advocate for
Mr. Vikram Singh, Advocate
for the respondents.

Avneesh Jhingan, J.

The present appeal has been filed against the award dated 16.11.2009 passed by Motor Accidents Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal').

The appellants are aggrieved of dismissal of the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act'). The claim petition was filed seeking compensation on account of death of Karam Singh in a motor vehicular accident.

The bare facts necessary for adjudication of present appeal are that in a marriage party on the intervening night of 14/15.06.2000, there was some altercation between Karam Singh and Vinod. It was alleged that on

17.06.2000, Vinod and Khilla took Karam Singh on a motorcycle bearing registration No.HR-06F-5078 (for short, 'the offending vehicle'). Dead body of Karam Singh was found at Meerut Chowk, Karnal on 18.06.2000. FIR No.47 dated 18.06.2000 was registered under Sections 302, 201, 109 and 120-B of the Indian Penal Code (for short, 'IPC') against Vinod etc. Post-mortem examination of the body of Karam Singh was conducted. Criminal proceedings were initiated against Vinod and Khilla. Both the accused were acquitted in criminal proceedings under Section 302 of IPC.

The claim petition filed under the Act was dismissed by the Tribunal as the claimants failed to prove the factum that Karam Singh lost his life in a motor vehicular accident. It was further not proved that with which vehicle, he had met with an accident.

Learned counsel for the appellants argued that the claim petition was moved under Section 163-A of the Act, therefore, rash and negligent driving of the offending vehicle was not to be proved. The Tribunal erred in dismissing the claim petition.

The scope of Sections 166 and 163-A is very well defined. Under Section 166 of the Act, the claimants have to prove involvement and rash and negligent driving of the offending vehicle. Under Section 163-A of the Act, rash and negligent driving of the offending vehicle is not to be proved. The claimants are not absolved from proving the involvement of the vehicle.

In the present case, it has not come on record that the death of Karam Singh was a result of the motor vehicular accident. The allegation

that he was last seen being taken on a motorcycle was also of no help as the said motorcycle was not recovered from the spot where the dead body was recovered. The claimants relied upon the disclosure statement made by Vinod before the police as a result of which the motorcycle was recovered from a room. This recovery will also not enhance the case of the claimants. There was no mechanical report produced on the record to establish that the said motorcycle met with an accident.

The claimants further relied upon disclosure statement made by Vinod wherein it was stated that Karam Singh was thrown on G.T.Road where he was run over by a truck. No details of the alleged truck has come on record. Even this statement will not bring the claim petition within the ambit of Section 163-A of the Act. No post-mortem report was produced to prove that the cause of death was motor vehicular accident.

No fault can be found in the award of the Tribunal. The appellants have not been able to raise even a blemish on the findings recorded by the Tribunal.

The appeal being bereft of any merits is dismissed.

(AVNEESH JHINGAN)
JUDGE

02.02.2018

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1. Whether the order is speaking/reasoned: Yes

2. Whether the order is reportable : Yes