

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

**FAO No.5303 of 2006 (O&M)
Date of decision: 02.05.2018**

Harwinder Kaur and others

....Appellants

Versus

Wazir Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Satbir Gill, Advocate,
for the appellants.

Mr. Rajbir Wasu, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal is directed against the Award dated 03.04.2006 passed by the Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') dismissing the claim petition filed by claimants-appellants seeking compensation on account of death of Balwant Singh in a motor vehicular accident which took place on 23.08.2004. Appellant No. 1 is widow, whereas appellant Nos.2 to 4 are children of deceased Balwant Singh.

Brief facts of the case are that on 23.08.2004, Balwant Singh (since deceased) was going on a motorcycle. When he reached near village Paniwala Mota, Tehsil and District Sirsa, a jeep bearing registration No. PB-23-9543 being driven by Wzir Singh-respondent No.1 in a rash and negligent manner, came and struck against the motorcycle of Balwant

Singh, as a result of which, he received multiple injuries and died at the spot. With regard to the accident, FIR No.89 dated 24.08.2004, under Section 279/304-A IPC was registered at Police Station, Baragudha, District Sirsa against respondent No.1. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

The Tribunal has dismissed the claim petition on the ground that after framing of issues, case was fixed for recording of evidence for 05.09.2005, but no witness of the claimants was present in the Court and the case was adjourned to 20.12.2005 for evidence of claimants, subject to payment of Rs.100/- as costs. Again on 20.12.2005, no witness was examined by the claimants and on the request of their counsel, case was adjourned to 03.04.2006 for entire evidence of claimant. However, the claimants again failed to lead any evidence. Therefore, the evidence of claimants was closed by order and their claim petition was dismissed by the Tribunal vide order dated 03.04.2006.

Learned counsel for the appellants has informed that after registration of FIR, driver-Wazir Singh faced trial before the Criminal Court. Vide judgment dated 27.07.2009, he has been acquitted of the charges framed against him on the ground that eye witnesses had turned hostile. This judgment is taken on record as Annexure A-1. A perusal of the judgment dated 27.02.2007 shows that before the Criminal Court, Mandar Singh, eye witness (PW-2) did not support the prosecution version and on this ground, the driver has been acquitted.

However, the accident is not in dispute and after presentation of challan, charges were framed against the driver of offending vehicle.

In the given circumstances of the case, this Court is of the view

that the provisions of Motor Vehicle Act are beneficiary in nature and in order to impart complete justice to the claimants, some more time should be provided to claimant-appellants to lead their entire evidence. Therefore, the award/judgment passed by the Tribunal is liable to be set aside.

Resultantly, the impugned award/judgment dated 03.04.2006 is set aside; the matter is remanded back to the Tribunal with a direction to provide adequate opportunities to both the parties to lead entire evidence and thereafter, pass a fresh Award in accordance with law.

Disposed of accordingly.

(RITU BAHRI)
JUDGE

02.05.2018
ajp

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