

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4511 of 2011 (O&M)

Date of Decision : 01.05.2018

Naresh Kumar and others

....Appellants

Versus

Sat Parkash and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Navneet Singh, Advocate
for the appellants.

Mr. Sunny Namdev, Advocate
for Mr. Saurabh Dalal, Advocate
for respondent no. 1.

Mr. Eklavya Darhi, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

Heard.

In the accident that took place on 01.03.2010 with Trax bearing registration no. HR-56-3345 (later referred to as “the offending vehicle”), two ladies, namely, Lakshmi and Kamla Devi, died while Poonam and Sameer suffered injuries.

Claim petition filed by Sameer, Poonam and dependents of Lakshmi before the Motor Accident Claims Tribunal, Sonapat were allowed and the Tribunal while passing award dated 03.04.2012 observed that the accident was caused due to rash and negligent driving of the offending vehicle i.e. Trax bearing registration no. HR-56-3345 and claimants before the Tribunal, Sonapat were allowed compensation.

Claim petition for death of Kamla Devi in the same accident was filed before the Motor Accident Claims Tribunal, Jhajjar and the Tribunal in the absence of any eye-witness account observed that there is no cogent

evidence on record to prove that driver of the offending vehicle was responsible for sudden bursting of tyre of the offending vehicle resulting in accident. This has resulted in contradictory observations by two Tribunals with regard to same accident. Tribunal has also not recorded any specific finding on issues no. 2 and 3, which are as follows:-

- (ii) Whether the petitioners are entitled to recover compensation from the respondent? If so, to what extent?

OPP

- (iii) Whether respondent no. 1 had no valid or effective driving licence on the day of accident? OPR

Finding of Motor Accident Claims Tribunal, Sonapat have not been challenged by owner or insurer of offending vehicle.

Keeping in view above facts, award dated 07.03.2011 passed by Motor Accident Claims Tribunal, Jhajjar is set aside and the case is remanded for decision of claim petition afresh.

Parties are directed to appear before the Motor Accident Claims Tribunal, Jhajjar on 28.05.2018. The Tribunal will provide opportunities to claimants as well as respondents to produce evidence in support of their contention and decide the claim petition afresh.

May 01, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No