

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2845 of 2013 (O&M)

Date of Decision: 06.03.2018

Kiran Bala and Others

....Appellants

V/S

Taranjit Singh and Others

....Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Anshuman Narula, Advocate,
for the appellants.

Mr. R. N. Moudgil, Advocate,
for the respondents.

RITU BAHRI, J.(Oral)

CM No. 12807-CII of 2013

This is an application for condonation of delay of 28 days in filing the present appeal.

For the averments mentioned in the application, same is allowed and delay of 28 days in filing the present appeal is condoned.

Accordingly, present appeal stands disposed of.

Main Case

The present appeal has been filed by the Claimants-appellants against the Award dated 14.12.2012 of learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') whereby claim petition filed by the claimants/appellants on account of death of Mahesh Raj in a road accident which took place on 03.05.2008, has been dismissed by the Tribunal.

Brief facts of the dispute are that, on 03.05.2008, at about

12.30 pm, deceased Mahesh Raj was going to Kurali via Sisvan-Kurali road, on his motorcycle bearing registration No. CH-03-D-4914. His son Manish Gogna alongwith Sandeep were also following the deceased on their motorcycle No.Ch-04-4900 to meet their relations. The deceased was driving the motorcycle on the left side of the road, at normal speed. One Mahindra pick up jeep being driven negligently and at very high speed came from the opposite side and hit the motorcycle of the deceased. The deceased alongwith his motorcycle fell down due to the impact of the accident and sustained multiple injuries on his body. Both Manish and Sandeep saw the jeep, but the said Mahindra Pickup jeep fled away. Sandeep noted down the registration number of Mahindra Pickup jeep as PB-12-H-7078, which had hit the deceased and fled from the spot. The matter was reported to the police. The police investigated the case and registered FIR No. 53, dated 04.05.2008, under sections 279/338/427 of IPC for rash and negligent driving against the driver of Mahindra Pickup Jeep.

Consequently, claimants-petitioners filed a claim petition before the Tribunal.

From the pleadings of the parties, the following issues were framed:

1. Whether Mahesh Raj Gogna had died in a motor vehicular accident due to rash and negligent driving of respondent Taranjit, while driving pick up Jeep make Mahindra bearing regisration No.PB-12-H-7078?OPP
2. Whether the claimants are entitled to compensation to what extent and from whom? OPP.
3. Whether the petition is not maintainable? OPR.

4. Relief.

In support of their case, the claimants have examined Shri Manish Gogna, claimant No.2 as PW1, Smt. Kiran Bala wife of the deceased as PW2 and respondents examined Dr. S. D. Deol, Medical officer, Civil Hospital, Anandpur Sahib as RW1, who proved the entry made in the hospital as Ex.R1. On the basis of evidence produced by both the parties, Tribunal dismissed the claim petition of the petitioners.

Feeling dissatisfied with the findings of the Tribunal, appellant filed the present appeal.

I have heard learned counsel for the parties and also gone through the findings of the Tribunal.

After going through the impugned award, as per statement of PW1, the accident had taken place on 03.05.2008 at about 12.30 pm. According to him, he alongwith one Sandeep Kumar was following his father on a separate motorcycle. PW 1 has stated that driver of the Mahindra pickup van had run away from the spot towards Chandigarh, after he had seen him at the spot. He also stated that the persons, who collected at the spot at the time of accident, had taken his father to civil Hospital, Kurali, but he did not accompany them having become unconscious.

On the other hand, statement made by RW1, Dr. S.S. Deol, who stated that one unknown patient was brought to civil hospital, Kurali on 03.05.2008 by one Dhanjit Singh son of Taranjit Singh son of Gurmukh Singh, resident of village Jinda Pur, Ropar, whereas, Taranjit Singh had put his signature on the register and as per record, the injured was brought in vehicle NO. PB-12-H-7078. The doctor proved the copy of the entry bearing

No.2284 as Ex. R1. Taranjit Singh-respondent No.1 who faced the criminal trial for the offence under Sections 279/338/304-A/427 of IPC and court has acquitted the respondent No.1 holding that the prosecution has failed to prove that the respondent No.1 who while driving the offending vehicle in a rash and negligent manner, had caused the accident.

Hence, keeping in view the facts that PW 1 had become unconscious after the accident, of which there appears no possibility, he might remind unconscious for a few minutes as he had reached Civil Hospital Kurali after about half an hour of the accident and also do not prove the version that the accident caused by the respondent No. 1 while driving the vehicle No. PB-12-H-7078 in a rash and negligent manner whereas, it is also clear from Ex. R1 that Taranjit respondent No. 1 who had collected at the spot after the accident and shifted the injured to the Hospital in his said pickup and he thus, could not be the culprit.

Hence, after going through the findings of the impugned Award, the orders of the learned Tribunal does not reflect any material irregularity or perversity which warranting interference. Hence the present appeal stands dismissed.

06.03.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes
Whether reportable No