

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 2324 of 2015 (O&M)
Date of decision : February 22, 2018

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Ram Baksh and another

.....Appellants

Versus

Sunita and others

.....Respondents

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BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Jorawar Singh Chauhan, Advocate for
Mr. N.S Shekhawat, Advocate for the appellants.

Mr. Rajbir Singh, Advocate for respondent no.4-Insurance Co.

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RITU BAHRI, J.

C.M No. 19343-CII of 2015

Prayer made in the application is allowed as prayed for.

C.M No. 21657-CII of 2016

Prayer made in the application is allowed as prayed for.

FAO No.2324 of 2015

The appellants have come up in appeal against the award dated 27.2.2015 passed by the Motor Accidents Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') whereby compensation of Rs.10,54,410/- has been awarded to the claimants on account of the death of Sonu in a vehicular accident.

Briefly stated, the facts of the case are that on 28.10.2013, Sonu (since deceased) was riding on Motor cycle No. HR-80/5214 which was being driven by Sandeep son of Sombir while returning from Uklana to Village Dolatpur. At about 5:15 p.m when they covered 4 km distance from Uklana towards Dolatpur side, Sandeep stopped his motor cycle on the side of the road to answer the call of nature and Sonu remained sitting on the motor cycle. In the meanwhile, a tractor trolley bearing registration No. HR-20W/3991 being driven by respondent no.1 in a rash and negligent manner and without adhering the traffic rules came from Village Dolatpur side and while coming towards wrong side of the road struck into the motor cycle. As a result of the accident, Sonu received serious, grievous and multiple injuries on his body which resulted into his death. In this background, FIR No.290, dated 31.10.2013 was recorded at Police Station Uklana against the driver of the tractor on the statement of Sandeep.

Sunita and Rajbir Singh being parents and Monu being the brother of the deceased (respondents no. 1 to 3 in the present appeal) filed claim petition before the Tribunal.

Tribunal gave a finding that the driver-respondent no.1 was not having a valid driving licence. As defined in Section 2(14) of the Motor

Vehicles Act, 1988 tractor attached with the trailer becomes a good carriage, as the trailer is solely for the purpose of carriage of goods, which as per Section 2(47) it is a transport vehicle for which special authorization was required. It was held by the Tribunal that licence of respondent no.1-driver of the offending vehicle authorized him to drive tractor light motor vehicle (NON-transport vehicle) and not the transport vehicle. As such the owner has contravened the terms and conditions of the insurance policy. Hence the Insurance Company-respondent no.3 was absolved of his liability to pay the compensation. However, it was directed that the Insurance Company will firstly make the payment of compensation to the claimants with liberty to recover the same from respondent no. 1 and 2 i.e the driver and owner respectively of the offending vehicle by filing an execution petition before the Tribunal.

Learned counsel for the appellants have argued that the Tribunal wrongly granted the liberty to the Insurance Company to recover the amount of compensation from the appellants as driver was holding a valid driving licence at the time of the accident as the licence to drive a tractor include the trolley as well.

This question came up for consideration before Hon'ble the Supreme Court in the case of **Nagashetty Versus United India Insurance Co. Ltd. 2001(4) RCR (Civil) 597**, in which it was held that a valid driving licence for driving a tractor includes driving of tractor with trailer as well. Mere fact that a trailer was added to the tractor in itself will not make the driving licence invalid. A person having a valid driving licence to drive a particular category of vehicle does not become disabled to drive that vehicle merely because a trailer is added to that vehicle to carry goods.

Keeping in view of the facts and circumstances of the case and in view of the judgment in the case of **Nagashetty's case (supra)**, present appeal is partly allowed and the award is modified to the extent that both the appellants and respondent no.4 in the present appeal (respondents no. 1, 2 & 3 in the claim petition) will jointly make payment of compensation to the claimants.

February 22, 2018
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(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No