

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-86-2013 (O&M)

Date of Decision: 23.01.2018

Phooli Devi and others

...Appellants

V/s.

Gurmeet Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. S.K. Yadav, Advocate for the appellants.

Mr. M.S. Randhawa, Advocate for
respondents No. 1 and 2.

Mr. Pardeep Goyal, Advocate for respondent No. 3.

AMIT RAWAL, J. (Oral).

The claim petition is preferred by the claimants on account of death of deceased Gopal aged 35 years who unfortunately died in an accident occurred on 21.06.2009 about 09.30 a.m. As per the statement made in the claim petition the deceased was working as conductor and on 21.06.2009 at about 9:30 a.m. was managing its tarpaulin on the roof of the truck when the driver of the offending truck bearing registration No. HP-12A-8052 moved the truck and he fell down and sustained injuries and died. The DDR was lodged on 30.06.2009 by the widowed mother regarding the death of Gopal. However Ramesh Kumar, an eye witness after two months lodged an FIR bearing No. 76 of 20.08.2009, he came to know that Gopal had died on account of fall from the truck as the truck driver had pushed the truck into motion. All these aspects have not been taken into consideration by the MACT resulting into dismissal of the claim petition.

Per contra learned counsel appearing on behalf of the insurance

company submitted that the driver appeared and denied the involvement of the vehicle. Even Ramesh Kumar is not the person who had witnessed the accident, he had seen that people were gathered at the site of accident. Concededly Gopal was working as a conductor and fell down from the truck. Whether the driver of the truck was involved in accident, negligence is not established. No explanation has come forth that how Ramesh Kumar was introduced in lodging the FIR. Statement of Ramesh Kumar has also not been proved. I am of the view that since conductor was working on the truck and accident had actually taken place and the insurer of the truck had been involved, therefore the MACT ought to have awarded compensation under 'no fault liability' as per Section 140 of the Motor Vehicles Act. While upholding the negligence, the award is modified by granting compensation of Rs. 15,000/-with interest @ 6% per annum from the date of filing of the claim petition.

Disposed of.

January 23, 2018

Divyanshi

(AMIT RAWAL)
JUDGE

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