

FAO No.5308 of 2016 (O&M)
and Cross Objection No.285-CII of 2016

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State of Punjab and another Versus Jaspal Rai and others

Present: Ms. Akanksha, AAG, Punjab,
for the appellants.

Mr. Ashwani Arora, Advocate,
for respondent Nos.1 to 3-claimants.

Mr. Tarun Sharma, Advocate,
for Mr. R.S. Bajaj, Advocate,
for respondent No.4.

RITU BAHRI J. (Oral)

State of Punjab etc.-appellants (owner of offending vehicle) have come up in appeal (FAO No.5308 of 2016) against the award dated 18.03.2016 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.83,50,280/- has been awarded in favour of the claimants-respondent Nos.1 to 3 on account of death of Parveen @ Parveen Rani in a motor vehicular accident which took place on 11.09.2015. Respondent Nos.1 to 3 are husband and children of deceased-Parveen @ Parveen Rani.

Brief facts of the case are that on 11.09.2015, at about 2.00 P.M., Parveen @ Parveen Rani (since deceased), after finishing VIP duty, was going on the road leading between Police Line, Sector 26, Chandigarh and Grain Market, Sector 26, Chandigarh on an Activa Honda scooter. She was being followed by Head Constable Darshan Devi on a separate scooter. When she reached near Police Line, Gate No.2, a Water Canon truck bearing registration No. PB-08-AJ-4549 being driven by Swari Lal @ Shuari Lal-respondent No.4 (respondent No.3 in claim petition) in a rash and negligent manner came from behind and hit the Activa of Parveen Rani,

as a result of which, she fell on the road and received serious injuries. She was ran over by the left rear wheel of the aforesaid truck. She was taken to PGI, Chandigarh, but she succumbed to the injuries. With regard to the accident, FIR No.361 dated 11.09.2015, under Sections 279/337IPC was registered at Police Station, Sector 26, Chandigarh against driver of offending truck. Consequently, the claimant (respondent Nos. 1 to 3 herein) filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place due to rash and negligent driving of the offending vehicle by its driver namely Swari Lal @ Shauri Lal and thus, returned the finding on issue No.1 in favour of the claimants-respondent Nos. 1 to 3. This finding was rightly given on the basis of deposition of Head Constable Darshan Devi (PW-3), who was an eye witness of the accident. Moreover, FIR was also registered against the driver of offending vehicle for causing the said accident.

Deceased Parveen Rani was employed as Constable in Chandigarh Police. As per salary certificate Ex.P2, she was getting a total salary of Rs.40,320/- per month, out of which, Rs.6754/- were deducted towards GIS State, NPS State, LIC NPS, State Arrears and Rs.300/- towards Welfare subscription. Accordingly, income of the deceased was taken by the Tribunal as Rs.40,320/- per month. In this income, 50% addition was made on account of future prospects, which came to Rs.60,480/- per month. Out of this, 1/3rd amount was deducted towards personal expenses of the deceased. After deduction, balance came to Rs.40,320/-. Age of the deceased was 30 years at the time of death/accident. Accordingly, after

applying the multiplier of 17, dependency of claimants came to Rs.82,25,280/-. Apart from this, Rs.25,000/- were awarded on account of funeral expenses and Rs.1,00,000/- on account of loss of consortium. Ultimately, the claim petition was accepted and a sum of Rs.83,50,280/- was awarded in favour of claimants-respondent Nos.1 to 3. Respondents (in claim petition) were held liable to pay the compensation jointly and severally.

Feeling dissatisfied with the impugned award, State of Punjab has preferred the present appeal.

I have heard learned counsel for the appellant and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the injuries received in the said accident. While allowing the claim petition, Tribunal has examined the deposition of Constable Bijender Singh (PW-1), Constable Dinesh Kumar (PW-2), Head Constable Darshan Devi, eye witness (PW-3) and claimant No.1-Jaspal Rai (PW-4).

Constable Darshan Devi (PW-3), who was eye witness of the accident, had reiterated the entire version given in the FIR as well as in the claim petition. In her cross-examination, she denied the suggestion that the offending truck was not involved in the accident and a false FIR was lodged on wrong facts. She further denied that the truck was not driven at fast speed and at a rash and negligent manner. She further denied the suggestion that Constable Parveen Rani died due to her own negligence. She deposed that she was deployed on special duty on the occasion of Prime Minister's

visit at PGI, Chandigarh. Jaspal Rai-claimant No.1 had appeared as PW-4 and reiterated the version given in the claim petition.

On the other hand, respondents examined as many as four witnesses to show that the offending vehicle was not involved in the accident in question. Satnam Singh (RW-2) deposed that at the given point of time, when the accident had occurred, he was driver of Tear Gas and Armourer Vehicle named 'Vajra' and was on Prime Minister duty. He was returning back to Police Lines along with ASI Daljit Singh and Head Constable Parminderjeet Singh. He stated that deceased-Parveen Rani tried to overtake their truck from the wrong side and in the process, she got struck on the footpath on her left, thereby entangling herself and scooter with the back left side of the Water Canon Truck. Similar version has been given by HC Parminderjit Singh (RW-3) and ASI Daljit Singh (RW-4). The Tribunal has observed that as per the version of RW-1 Swari Lal @ Shuari Lal (driver of offending vehicle), deceased had struck into the divider, whereas a different plea had been taken by RW-2, R-3 & RW-4 that the deceased was trying to overtake their truck as well as the offending vehicle from the left side and thereafter, hit the footpath. Therefore, the version of RW-2, RW-3 and RW-4 was different from that of RW-1 i.e. driver. Presence of RW-2, RW-3 and RW-4 at the site of accident, has not been proved by any documentary evidence. They have failed to prove that they were on Prime Minister's duty at that time when the accident had occurred. There was no complaint with the higher authorities regarding lodging of false FIR against the driver of offending vehicle. Moreover, the Investigating Officer was also not examined by the respondents in the claim

petition. As per postmortem report Ex.P4, cause of death was hemorrhage shock and the injuries were ante mortem in nature. Since the presence of RW-2, RW-3 and RW-4 at the place of accident became doubtful, the version given by eye witness Constable Darshan Devi (PW-3) was taken to be correct.

On a specific query put to learned counsel for the State, she informed that the driver (Swari Lal) is still facing criminal trial and has not been acquitted so far.

In view of the above, finding given by the Tribunal on issue No.1 does not require any interference, as the stand taken driver (RW-1) is different from the version given by RW-2, RW-3 and RW-4, who were allegedly present at the spot. There was no evidence that these three witnesses were on duty on the day when Prime Minister was on a visit to Chandigarh. Hence, their version has been rightly discarded. Moreover, after registration of FIR, the driver is still facing trial.

In view of the above, the appeal (FAO No.5308-2016) filed by State of Punjab is **dismissed**.

For arguments on Cross Objection No.285-CII of 2016, the matter is adjourned to 24.08.2018.

(RITU BAHRI)
JUDGE

14.05.2018
ajp

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