

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

-.-

FAO 4131 of 2017 (O&M)
Date of decision: 04.10.2018

Parkash Kaur and others

.....Appellants

Versus

Raj Singh and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Ms Gurpal Kaur Dulat, Advocate
for the appellant

-.-

Rekha Mittal, J. (Oral)

The present appeal directs challenge against award dated 28.01.2014 passed by the Motor Accidents Claims Tribunal, Ferozepur (hereinafter to be referred as 'the Tribunal') whereby application for grant of compensation in regard to death of Surinder Singh in a motor vehicular accident that took place on 31.10.2010 has been dismissed on the basis of findings recorded on issue No. 1.

The case set up by the claimants is that on 31.10.2010 at about 10.00 pm, Surinder Singh, husband of claimant No. 1 and father of claimants No. 2 and 3 was coming from Jalalabad to his village Alike on his motorcycle. When he reached in the area of village Hamad near Gurudwara Pargat Sahib, a trolly/truck bearing registration No. PB 4K 9941 came from Jalalabad side in rash and negligent manner and struck against motorcycle of the deceased. Surinder Singh sustained grievous injuries and died at the spot. FIR No. 50 dated 31.10.2010 under Sections 304-A, 279 and 429 of

the Indian Penal Code was registered on the statement of Baldev Singh son of Malla Singh, resident of village Ali Ke Jhuggian, Tehsil Guru Har Sahai, District Ferozepur. The claimants prayed for grant of compensation to the tune of Rs.15,00,000.00.

Raj Singh-respondent No. 1 before the Tribunal filed reply and denied the material averments raised in the application with the plea that claim petition has been filed just to harass and extort money from answering respondent. On 26.10.2010, truck bearing registration No. PB-4K-9941 was loaded with 537 bags of Basmati rice of United Exports on 02.11.2010 from Ranian and the same was to be delivered to United Exports at its godown in Gharaunda. The truck got broken down and its engine was got repaired from Hanzra Motors Workshop on 30.10.2010 and as such, question of causing any accident at village Hamad does not arise. On an application moved by answering respondent before Senior Superintendent of Police, Ferozepur, the DSP conducted inquiry and found respondent No. 1 to be innocent. The insurance company filed the written statement denying its liability to pay compensation.

The controversy led to framing of issues, reproduced in para 8 of the award. To prove their case, one of the claimants Parkash Kaur appeared in the witness box and tendered into evidence copy of FIR Ex. A-1 and copy of post-mortem report mark B. To rebut evidence of the claimants, Raj Singh appeared in the witness box for himself as well as power of attorney holder of Harnek Singh.

The claimants examined widow of the deceased to prove their case with regard to entitlement of the claimants to get compensation.

Admittedly, Parkash Kaur is not an eye witness to the occurrence. As the

claimants failed to establish that accident took place because of involvement of the alleged offending vehicle much less due to rash and negligent driving of the vehicle in question, no error can be noticed in findings of the Tribunal determining issue No. 1 against the claimants, on the basis whereof, application for grant of compensation has been dismissed.

For the foregoing reasons, the appeal fails and is accordingly dismissed *in limine*.

As the appeal has been decided on merits, applications for condonation of delay in filing as well as re-filing the appeal are of academic relevance.

(Rekha Mittal)
Judge

04.10.2018
mohan bimbira

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