

In the High Court of Punjab and Haryana at Chandigarh

FAO-4045-2002

Date of Decision: February 04, 2019

Indrawati

... Appellant

Versus

Ramesh Thapa and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. R.S. Hooda, Advocate,
for the appellant.

Mr. Deepak Suri, Advocate,
for respondent No.3.

Mr. Ram Avtar, Advocate,
for respondent No.4.

Avneesh Jhingan, J. (Oral)

The record of this appeal was burnt and from the salvaged record of the partially burnt cases, the same was reconstructed subject to all just exceptions and further verification.

The award dated 25.02.2002 passed by Motor Accident Claims Tribunal, Rohtak (for short “Tribunal”) has been assailed by the mother of Rajesh Kumar being aggrieved of dismissal of claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short “Act”).

A claim petition No. 87 of 1998 was filed by the mother of Rajesh Kumar claiming compensation on account of death of Rajesh Kumar in a motor vehicular accident that took place on 12.05.1997.

The facts emanating from the record are that a motor vehicular

accident took place on 12.05.1997. The vehicle involved in the accident was a Matador bearing registration No. HR-13/6596 and a Tata vehicle bearing registration No. DL-3CG/1182. The said Matador was being driven by Rajesh Kumar (deceased) . The accident occurred 4 kms. away from village Ismaila. Various passengers of the Matador received injuries. FIR No. 176 dated 13.05.1997 was registered at Police Station Sampla.

In the claim petition, it was pleaded that Rajesh Kumar sustained injuries in the accident on 12.05.1997 and he lost his life on 08.07.1997 as a result of injuries sustained in the accident.

FIR was registered on the statement of Ramesh Thapa son of Som Bahadur Thapa, driver of the Tata vehicle. In the FIR, it was recorded that the accident was caused due to rash and negligent driving of Rajesh Kumar. The Tribunal considering the statements given by various eye witnesses including Balwant Singh, who was passenger in the Matador, held that accident was caused due to contributory negligence on the part of both the drivers.

The claim petition was dismissed as no evidence was adduced by the claimant to establish that Rajesh Kumar sustained injuries in the accident and the death was caused as a result of the injuries suffered in the accident.

Learned counsel for the appellant contends that the Tribunal erred in dismissing the claim petition. The claimant deposed before the Tribunal that Rajesh Kumar suffered grievous injuries in the accident. He remained indoor patient for 15 days. He suffered fracture and was operated upon and a rod was inserted in his right leg. He further stated that it was because of injuries sustained in the accident that Rajesh Kumar lost his life.

Learned counsel for the respondents defended the award.

No interference is called for in the impugned award so far as dismissing the claim petition No. 87 of 1998 is concerned. The claimant failed to produce any evidence to substantiate the pleadings that Rajesh Kumar sustained injuries in the accident. Neither any hospital record was produced regarding his treatment nor any doctor was examined. The accident took place on 12.05.1997. As per the pleadings, Rajesh Kumar was hospitalized for 15 days and thereafter, he was receiving treatment from Dr. Ishwar Singh as an outdoor patient. He died on 08.07.1997. No post-mortem was conducted to connect that the death was as a result of injuries sustained in the accident.

In the circumstances mentioned above, no shadow can be cast upon the findings recorded by the Tribunal dismissing the claim petition of the claimant-appellant.

Instant appeal is, accordingly, dismissed.

February 04, 2019
vkd

(Avneesh Jhingan)
Judge

Whether reasoned / speaking : Yes

Whether reportable : Yes