

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

**F.A.O No. 414 of 2003
Date of decision:- 10.09.2019**

Harvinder Kaur and ors. ...Appellants
Versus

Surinder Singh and ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Vivek Suri, Advocate
for the appellants

Mr. Vishal Moudgil, Advocate
for respondent No. 2

Ms.Manjeet Kaur, Advocate for
Mr.Pardeep Goyal, Advocate
for the Insurance Co.

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the appellants, against award dated 28.10.2002 passed by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') under Section 166 of the Motor Vehicles Act whereby the claim petition was dismissed.

2. On 06.06.2001, Nazar Singh was going on his scooter bearing No. PB-10-R-3171 along with his wife. When they reached near tilla, the offending bus bearing No. PB-11-A-9239 came from opposite side driven by respondent No. 1 and dashed against the scooter of the deceased. Due to this impact, they fell on the katcha berm of the road while the offending vehicle bus crossed over the body of Nazar Singh due to which he died on the spot. In this regard, DDR No. 13 dated 06.06.2001 was registered with P.S Sadar Nabha by Gurbachan Singh (father of Nazar Singh).

3. However, the Tribunal dismissed the claim petition on the ground that the claimants failed to establish the death of Nazar Singh having

occurred on account of accident, which took place due to rash and negligent driving of bus bearing No. PB-11-A-9239 by respondent No. 1.

4. At the very outset learned counsel for the appellant has referred to statement of Harwinder Kaur (P.W.1) who was the eye witness and stated that she and her husband (since deceased) were hit by the bus being driven by respondent No. 1 in a rash and negligent manner.

5. Learned counsel for the appellant has submitted that the learned Tribunal has wrongly relied upon DDR No. 13 dated 06.06.2001 registered on the statement of father of the deceased who stated that he along with his son Raghbir Singh was coming on scooter No. PB-42-5871 along with his son Nazar Singh on a separate scooter No. PB-10-R-3171 to their village after meeting their relative Jang Singh. When they reached near petrol pump, village Dulanhi, a cow came in front of the scooter of his son Nazar Singh and in order to save the accident, he took his scooter on the wrong side and struck against the bus bearing No. PB-11-A-9239. There was no fault of the driver of the bus.

6. Learned counsel for the appellant has further argued that father of the deceased did not step into witness box and hence in that backdrop the statement given by wife of the deceased (eye witness) should have been accepted by the Tribunal.

7. After hearing learned counsel for the parties, the present appeal is liable to be dismissed as the father of the deceased had lodged the DDR to the effect that when they reached near petrol pump, village Dulanhi, a cow came in front of the scooter of his son Nazar Singh and in order to save the accident, he took his scooter on the wrong side and struck against the bus bearing No. PB-11-A-9239. The adverse inference has rightly been drawn

against the claimants as the DDR was duly proved by R.W.2 HC Randhir Singh. F.I.R No. 194 dated 14.06.2001 was registered on the statement of wife of the deceased. This F.I.R does not seem to be probable. As per the version given in the DDR, the accident has not occurred on account of rash and negligent driving of respondent No. 1.

8. The appeal is accordingly dismissed being devoid of any merit.

10.09.2019
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>