

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

Date of decision : 24.07.2019

- 1. FAO-4703-2003 (O&M)**

Subhash Chander and anotherAppellants

Versus

Rakesh Kumar Bhatia and another Respondents
- 2. FAO-1550-2004 (O& M)**

Rakesh Kumar BhatiaAppellant

Versus

Subhash Chander and anotherRespondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ashok Sharma Nabhewala, Advocate
for appellants in FAO-4703-2003
for respondent No. 1 in FAO-1550-2004.

Mr. S.S. Gill, Advocate
for appellant in FAO-1550-2004
for respondent No. 1 in FAO-4703-2003

KULDIP SINGH, J.

This order shall dispose of above mentioned two connected appeals bearing **FAO-4703-2003** titled as **Subhash Chander and another Versus Rakesh Kumar Bhatia and others** and **FAO-1550-2004** titled as **Rakesh Kumar Bhatia and others Versus Subhash Chander and another** arising out of the common award dated 18.7.2003, passed by the Motor Accident Claims Tribunal, Amritsar. For brevity, the facts are being taken from FAO-4703-2003.

FAO-4703-2003 has been filed for enhancement of compensation awarded by the Tribunal whereas **FAO-1550-2004** has been filed by the owner of the offending truck for setting aside the award dated 18.7.2003, passed by the Tribunal.

Brief facts of the case are that on 9.2.2000 at about 12.00 noon, Sachin Kumar, aged about 21 years, was going on scooter bearing registration No. DL-75-PO-142 on Jalandhar-Wagh GT road. When he reached near Hussain Pura over bridge in the vicinity of Amritsar, an offending tractor bearing registration No. PB-02-F-6574 came from behind in a rash and negligent manner. It was being driven by respondent No. 2- Sahib Singh and hit the scooter of Sachin Kumar. As a result of the accident, Sachin Kumar fell down, sustained injuries and died at the spot.

An FIR No. 25 of 2000 dated 09.02.2002 was registered at Police Station A-Division, Amritsar on the statement of constable Surinder Pal Singh who happened to be present at the spot. The offending tractor was not insured with any Insurance Company. It was stated that Sachin Kumar was working as commission agent and earning Rs. 15,000/- per month.

Respondents in their written statement denied the accident. It was not claimed that vehicle was insured.

From the pleadings following issues were framed: -

1. Whether Sachin Kumar (since deceased) died in a road accident on 09.02.2000 near General Bus Stand, Amritsar caused by Sahib Singh, respondent No. 2, by

driving his tractor No. PB02-F-6574 so rashly and negligently? OPA.

2. Whether applicants are entitled to the compensation, if so to what extent and from which of the respondents? OPA.

3. Relief.

Heard, learned counsel for the parties and perused the case file carefully.

First of all I will take up the appeal of Rakesh Kumar Bhatia i.e., **FAO-1550-2004** of owner of the offending tractor. It is contended on behalf of the appellant that the tractor was not involved in the accident. Admittedly, the tractor was not insured. I am of the view that in this case, there is a credible evidence in the form of statement of constable Surinder Pal Singh who appeared as PW-2, who happened to be present at the spot and witnessed the accident. He has categorically stated that Sahib Singh was driving the offending tractor in rash and negligent manner and hit the scooter. The scooterist died at the spot. It was on the basis of the statement of constable Surinder pal Singh that FIR in this case was registered and matter was investigated. It is not denied that in the investigation, the driver was found involved in the crime and was challaned.

I am of the view that normally the police does not come forward to become the complainant. But in this case, a constable who happened to be present at the spot came forward to lodge the report. He has no ill will or entity against the owner or driver of the tractor. Therefore, there is no reason to disbelieve his statement. It was rightly accepted by the

Tribunal. Hence, the findings of the Tribunal regarding liability of the owner and driver of the tractor trolley are affirmed.

Now coming to the compensation part, the deceased Sahib Singh was aged 21 years. The Tribunal, considering that there was no proof that he was working as commission agent, assessed his income as Rs. 4,000/-. Since his income was assessed as Rs. 4,000/- and the deceased was unmarried, $\frac{1}{2}$ is taken as personal expenses. 40% i.e. Rs. 800/- on account of future prospectus are allowed. Hence, the total dependency of the claimant comes to Rs. 2800/- per month. Considering the age of the claimant, multiplier of 18 is applied. Hence, the amount of compensation comes to Rs. 2800 X 12 X 18 which comes to Rs. 6,04,800/-. Rs. 70,000/- are allowed under the conventional heads. Hence, the total amount of compensation comes to Rs. 6,74,800/-. The enhanced compensation shall be paid with interest @ 7.5% per annum from the date of filing of the claim petition till realization.

As such, FAO-4703-2003 stands allowed and FAO-1550-2004 stands dismissed.

A photocopy of this order be placed on the connected file.

(KULDIP SINGH)
JUDGE

24.7.2019
preeti

Whether speaking / reasoned
Whether Reportable:

Yes
Yes