

FAO No.708 of 1994 (O&M)

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

FAO No.708 of 1994 (O&M)
Date of Decision: 22.10.2019

Raju and another

...Appellants

Versus

Sh. Om Parkash and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. Sagar Aggarwal, Advocate,
for Mr. Ashit Malik, Advocate, for the appellants.
Mr. Arun Singal, Advocate, for respondent No.5.
Mr. Pardeep Goyal, Advocate, for respondent No.6.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, claimants have laid challenge to award dated 15.12.1993, whereby Motor Accident Claims Tribunal, Panipat, dismissed their claim petition under Section 166 of the Motor Vehicles Act, 1988 (in short the 'Act').

Briefly, on 12.05.1989, Nafe Singh and various other passengers were travelling in a tractor-trolley bearing registration No.HYK-7910, driven by respondent No.1 Om Parkash, which met with an accident. Resultantly, tractor-trolley turned turtle. Nafe Singh got crushed underneath the trolley and succumbed to his injuries at the spot.

Being aggrieved, his widow, namely, Kamla Devi filed claim petition under Section 166 of the Act against the respondents for grant of compensation on account of death of her husband.

FAO No.708 of 1994 (O&M)

During the pendency of her claim petition, Kamla Devi expired. Therefore, her minor children i.e. appellants were substituted in her place.

The Tribunal, thereafter holding trial, dismissed claim petition vide impugned award dated 15.12.1993.

Learned counsel for the appellants *inter alia* contends that Tribunal failed to appreciate that deceased Nafe Singh was not travelling in the tractor-trolley as a gratuitous passenger, rather was engaged by respondent No.1 to transport fodder. Even otherwise, respondents No.1 cannot escape from his liability to pay compensation, because he was driving the offending tractor-trolley in a rash and negligent manner.

Refuting above submissions, learned counsel for the respondent contends that there is no evidence on the record that respondent No.1 was driving offending tractor-trolley in a rash and negligent manner. PW3 Ramech Chand, own witness of the appellants-claimant categorically testified that accident had occurred on account of sole rash and negligent driving of bus driver, who hit the tractor-trolley from behind. With the above submissions, he pleaded the legality and validity of the impugned award.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal completely devoid of any merit for the reasons to follow.

There is no *iota* of evidence that respondent No.1 was driving his tractor-trolley in a rash and negligent manner. PW3 is the author of FIR, who made statement before the police that he along with other persons was travelling in the offending tractor-trolley to attend a marriage. Therefore,

FAO No.708 of 1994 (O&M)

his subsequent unbelievable story that they were engaged by respondent No.1 to carry fodder, has rightly been rejected by the Tribunal.

I have gone through the impugned award and find no illegality or perversity in the same.

Dismissed.

October 22, 2019
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No