

**FAO No. 4190 of 2004,
FAO No. 4191 of 2004 and
FAO No. 4192 of 2004**

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

**FAO No. 4190 of 2004
DECIDED ON: FEBRUARY 27, 2019**

HARVINDER KAUR AND OTHERS

.....APPELLANTS

VERSUS

RAM CHANDER AND OTHERS

.....RESPONDENTS

2.

FAO No. 4191 of 2004

MANJIT KAUR AND OTHERS

.....APPELLANTS

VERSUS

RAM CHANDER AND OTHERS

.....RESPONDENTS

AND

3.

FAO No. 4192 of 2004

DHANPATI AND ANOTHER

.....APPELLANTS

VERSUS

RAM CHANDER AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

**Present: Mr. Lalit Kumar, Advocate
for the appellants in all the appeals.**

**Mr. Vinod Gupta, Advocate
for the respondent-Insurance Company.**

AVNEESH JHINGAN, J (ORAL)

The aforesaid three appeals are being disposed of by a common order as they are arising out of the same accident and same award.

The appeals have been filed against the award dated 21.05.2004 passed by the Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal') dismissing the claim petitions filed under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act').

The brief facts necessary for the adjudication of the appeal(s) are that on 06.09.2001, Jaswant Singh was going from Ambala to village Amipur on his scooter bearing registration No. HR-03-NB-8132. Jaswant Singh and Om Pal were pillion riders and Tej Parkash was the driver. The said scooter met with an accident with a truck bearing registration No. HR-46-6535 (hereinafter referred to as the 'offending vehicle'). As a result of the impact, all the three riders of the scooter lost their lives. Jaswant Singh and Tej Parkash died at the spot whereas, Om pal died on his way to the hospital. FIR No. 196, dated 06.09.2001 was registered at Police Station Sadar Ambala on the statement of Mohinder Singh.

Three separate claim petitions under Section 163-A of the Act were filed before the Tribunal by the legal heirs of Jaswant Singh, Tej Parkash and Om Pal. The Tribunal held that the claimants have failed to prove that accident occurred due to rash and negligent driving of the offending vehicle. Thus, the claim petitions were dismissed on the ground that deposition of PW-7 was considered doubtful.

As per the contents of the FIR, Baljeet Singh was a pillion rider of a scooter, which was being driven by one Mohinder Singh. In order to prove the

involvement of the offending vehicle, Baljeet Singh appeared before the Tribunal as PW-7 and deposed that he took Om Pal to the hospital as he was still breathing. It was the reason that when police came at the spot of accident he was not found present there. The Tribunal while dismissing the claim petitions held that there are contradictions in the contents of the FIR and the deposition made by Baljeet Singh. Aggrieved of the dismissal of claim petitions, the present appeals have been filed.

Heard learned counsel for the parties, perused the record.

In the claim petitions filed under Section 163-A of the Act before the Tribunal, claimants have to only prove the involvement of the vehicle and not the rash and negligent driving of the offending vehicle. The law is well settled that the onus in proceedings under the Act is not as onerous as in criminal proceedings. Reliance in this regard is placed upon the decision of the Supreme Court in **Parmeshwari Vs. Amir Chand and others, 2011 AIR (SC) 1504** wherein, it was held as under:

*“The High Court appears to be not cognizant of the principle that in a road accident claim, the strict principles of proof in a criminal case are not attracted. The following observations of this Court in **Bimla Devi and others Vs. Himachal Road Transport Corporation and others [(2009) 13 SCC 530]** are very pertinent.*

"In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of

probability. The standard of proof beyond reasonable doubt could not have been applied."

The statement of Baljeet Singh is fortified from the contents of the FIR, as the name of Baljeet Singh finds mention in the FIR. The FIR was got registered by Mohinder Singh in which, it was specifically stated that Baljeet Singh was a pillion rider of his scooter, hence, it proved that Baljeet Singh was an eye witness to the accident. In the FIR, it was also mentioned that two persons died at the spot and the third person was taken to the hospital, this renders further support to the statement given by Baljeet Singh that he took Om Pal to the hospital.

In such circumstances, findings recorded by the Tribunal that claimants failed to prove that the death was caused due to motor vehicular accident, cannot be sustained, the same are set aside.

The matter is remitted back to the Tribunal to decide the matter afresh under Section 163-A of the Act in accordance with law.

Parties are directed to appear before the Tribunal on 11.04.2019.

The afore-said appeals are disposed of, accordingly.

FEBRUARY 27, 2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes
Whether reportable Yes