

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

FAO No.2068 of 2006 (O&M)

Date of decision: 26.09.2019

Smt. Salochana Devi and others

....Appellants

Versus

Mohinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Virk, Advocate,
for the appellants.

Mr. Rajneesh Malhotra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed against the Award dated 06.01.2006 passed by the Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') dismissing the claim petition filed by the claimant-appellants seeking compensation on account of death of Karam Singh in a motor vehicular accident which took place on 03.06.2003.

Brief facts of the case are that on 03.06.2003, Karam Singh (since deceased) was going from M/s Ishwar Chand Krishan Lal, Commission Agents, New Grain Market, Ismailabad towards his village Tabra on a bicycle. At about 7.30/8.00 P.M., when he reached near Dera Angrej Singh within the area of village Jalbera, on Ambala to Hissar road, in the meantime, an Armada Jeep bearing registration No.PB-11-J-1030, being driven by Mohinder Singh-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against the cycle of deceased. Thereafter, the jeep went off the road on its wrong side. As a

result of this accident, Karam Singh received multiple, simple and grievous injuries. Karnail Singh and Kali Ram witnessed the said accident. Karam Singh was taken to Civil Hospital, Ambala City. However, due to serious condition of Karam Singh, he was taken to PGI Chandigarh. Unfortunately, Karam Singh succumbed to the injuries on the way to PGI, Chandigarh. With regard to the accident, FIR Ex.P1 was registered against respondent No.1. Consequently, claimant-appellants filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal has returned finding that Karam Singh-deceased had failed in his duty and turned towards his village without caring for the coming traffic i.e. Armada Jeep, therefore, the Jeep driver could not be held liable for the rash and negligent driving. With these observations, the Tribunal has dismissed the claim petition. However, the claimant-appellants were awarded a sum of Rs.50,000/- in equal shares being no fault liability along with interest at the rate of 7.5% per annum from the date of institution of the claim petition till realization.

After hearing learned counsel for the parties, this appeal deserves to be dismissed. As per site plan Ex.R5, Armada Jeep driven by respondent No.1 was coming from Pehowa side and the accident had taken place at point 'A' i.e. on the left side of the road while going from Pehowa side towards Ambala. The jeep was on its correct side of the road. The jeep had overturned on left side of the road towards village Tabra and it was facing towards Ismailabad at point 'B'. The Cyclist had to go to village Tabra and in no occasion, the jeep could hit him by going on the wrong side. Version given by Karnail Singh (PW-2), eye witness, was not

corroborating with the site plan Ex.R5, as he was driving the motorcycle and it was not possible that he would be following the cyclist when he was going from Ambala to village Tabra. In this backdrop, driver of the jeep was not held liable for rash and negligent driving. Learned counsel for respondent No.3-Insurance Company has also given a site plan, which is taken on record as Annexure R-1.

After going through the impugned award, it is apparent that claimants have failed to lead any substantial evidence to prove that the accident in question had been caused by driver (respondent No.1) while driving the offending vehicle in a rash and negligent manner. Witnesses examined by the claimants could not prove the negligence of driver of offending vehicle. Presence of eye witnesses at the place of occurrence, is also doubtful. In these circumstances, this Court is of the view that in the absence of any cogent and convincing evidence, the Tribunal has rightly dismissed the claim petition. No ground is made out to interfere therein.

Resultantly, finding no merits, present appeal is dismissed.

(RITU BAHRI)
JUDGE

26.09.2019

ajp

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No