

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2379 of 2006
Date of decision: 21.08.2019

Devinder Singh and another

...Appellants

V/s.

Karnail Kaur and others

...Respondents

And

Devinder Singh and another

FAO No. 2380 of 2006
...Appellants

V/s.

Jaswant Singh

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

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

Mr. Ankush Singla, Advocate for the respondents.

RITU BAHRI, J. (Oral).

These appeals have been filed by Devinder Singh and Jogga Singh who are the driver and owner of Mini Bus No. PB-10F-9435, against the award of the Tribunal dated 21.02.2006 whereby a finding has been given that Mini Bus was being driven in a rash and negligent manner by driver Devinder Singh and Gurcharan Singh died after suffering injuries and Jaswant Singh received multiple injuries in a road accident which took place on 23.08.2003.

Brief facts of the case are that on 23.08.2003, Gurcharan Singh (deceased) alongwith Jaswant Singh was returning to his house in village Bhindra after grazing cattle. A mini bus No. PB-10-F-9435 came from the side of village Bhindra driven by respondent No. 1 in rash and negligent manner and by coming on the wrong side, hit Gurcharan Singh (deceased)

and Jaswant Singh. Both of them received injuries. When Gurcharan Singh was being taken to the hospital at Ludhiana, he died on the way and Jaswant Singh suffered multiple grievous injuries.

One of the grounds of appeal was that the Tribunal had failed to take into consideration the specific evidence of RW1 Baghel Singh who was an independent person and had deposed that the accident was not due to negligence of the bus driver but was caused due to the negligence of Gurcharan Singh, who was going with the cattle. Learned counsel for the appellants has also produced the deposition of this witness whereby he stated that he was travelling in the mini bus and when the mini bus crossed Bhindra, then Gurcharan Singh suddenly brought out the buffaloes from out of the canal distributary and by hitting them with sticks made them run and come before the bus and the driver in order to save the buffaloes immediately applied the brakes and in this manner the accident took place. The challenge is to the quantum of the compensation assessed by the Tribunal.

A perusal of the award shows that in para 17, the Tribunal has observed that eye witnesses PW8 Jit Singh and PW13 Jaswant Singh had stated that accident was caused due to rash and negligent driver of the bus which hit Gurcharan Singh and Jaswant Singh. Their statements also got corroborated from the FIR (Ex.P71). While examining the deposition of RW1 Baghel Singh, it has also been observed that he had stated that accident took place due to the negligence of Gurcharan Singh as he brought the cattle before the bus. However in the written statement, respondent No. 1-Devinder Singh who appeared as RW2 did not deny that he was driving the bus in question at the time of accident. He deposed in his affidavit that

the accident was not caused due to his negligence and he had been falsely implicated. In the accident, Devinder Singh RW2 also suffered injuries. Hence, the tribunal has rightly returned finding on issue No.1 on the statements of Jit Singh PW8 and Jaswant Singh PW13 to the extent that Devinder Singh was driving the mini bus in a rash and negligent manner on 23.08.2003.

Keeping in view the fact that Devinder Singh, the driver of the mini bus did not deny that he was driving the mini bus, the finding on issue No. 1 has been rightly returned and does not require any interference.

Both the appeals are hereby dismissed.

(RITU BAHRI)
JUDGE

21.08.2019

Divyanshi

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No