

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3850 of 2009
Date of decision: 5.2.2019

Rajwant Kaur and another

.. Appellants

v.

Laxman Singh and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Jasneet Mehra, Advocate for the appellants.
Mr. Pardeep Kumar, Advocate for respondent No. 3.

...

AVNEESH JHINGAN, J. (Oral)

The award dated 9.6.2009 passed by the Motor Accident Claims Tribunal, Kurukshetra (hereinafter described as 'Tribunal at Kurukshetra') has been challenged by the legal heirs of Devender Singh aggrieved of the dismissal of claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The facts in brief are that a motor vehicular accident took place on 16.5.2007 in which Devender Singh and Phool Singh lost their life. The vehicles involved in the accident were Indica Car bearing registration No. PB-2AR-8158 and truck bearing registration No. HR-55F-3926. Two claim petitions had been filed by the legal heirs of Devender Singh and Phool

Singh. The claim petition by the legal heirs of Phool Singh was filed before the Motor Accident Claims Tribunal, Amritsar (hereinafter described as 'Tribunal at Amritsar'), which was allowed vide award dated 13.9.2008. A sum of ₹6,40,000/- was awarded along with interest @ 7% per annum. The claim petition by the legal heirs of Devender Singh was filed before the Tribunal at Kurukshetra. Vide impugned award, the Tribunal at Kurukshetra dismissed the claim petition holding that driving of respondent No. 1 in the claim petition was not rash and negligent and the claimants are not entitled to any compensation.

Learned counsel for the appellants contends that there are two contradictory findings with regard to the negligence of respondent No. 1 in same accident by two separate Tribunals. The Tribunal at Amritsar held that the accident was caused due to the rash and negligent driving of truck bearing registration No. HR-55F-3926, whereas in the impugned award by the Tribunal at Kurukshetra, it has been held that the accident was not caused due to the rash and negligent driving of the said truck.

Considering the facts of the case and going through the award passed by the Tribunal at Amritsar, which is annexed with CM No. 9956-CII of 2016 filed by the appellants, *prima facie* contradictory findings have come with regard to the same accident. In such circumstances, it is appropriate that the impugned award passed by the Tribunal at Kurukshetra is set aside and the matter is remitted back to the Tribunal at Kurukshetra to decide the claim petition afresh, taking into consideration the award dated 13.9.2008 passed by the Tribunal at Amritsar. The parties would be at liberty to adduce evidence in support of their claims.

The parties are directed to appear before the Tribunal at Kurukshetra on 20.3.2019.

The appeal stands disposed of.

(AVNEESH JHINGAN)
JUDGE

5.2.2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No