

In the High Court of Punjab and Haryana at Chandigarh

FAO- 2971 of 2016 (O&M)
Date of Decision: 18.12.2019

Rakesh Kumar and another

---Appellants

versus

Kamaljit Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. S.S.Hira, Advocate
for the appellants**

**Mr. Abhinav Sood, Advocate,
Guardian ad litem for respondent No. 2**

Rekha Mittal, J.

Challenge in the present appeal has been directed against award dated 1.3.2016 passed by the Motor Accidents Claims Tribunal, Hoshiarpur (in short “the Tribunal”) whereby compensation has been assessed on account of death of Parminder Singh in a motor vehicular accident that took place on 17.7.2013.

Claimants and respondents No. 4 and 5 (therein) have been held entitle to compensation to the tune of Rs. 70,84,311/-, to be paid by the driver and owner of alleged offending vehicle, tractor bearing No. PB-08 AZ-7049 owned by Kashmir Kaur and driven by Rakesh Kumar.

Counsel for the appellants would argue that claimants concluded their evidence on 1.2.2016 after availing number of opportunities subsequent to framing of issues vide order dated 27.5.2015. Thereafter, in a

short span of less than 20 days, the Tribunal adjourned the case 5-6 times.

It is further submitted that though evidence of the appellants (respondents therein) was closed, in view of statement made by their counsel but immediately thereafter they filed application dated 29.2.2016 for permitting them to adduce additional evidence by examining Gurtej Singh and Tirath Singh but the same was dismissed vide order dated 1.3.2016, the day the claim application was finally decided vide award of even date. It is further argued that in case the appellants are not permitted to examine the aforesaid witnesses, a serious prejudice shall be caused to them in controverting case of the claimants that accident is the result of rash and negligent driving of offending vehicle in respect whereof FIR was registered after about 7 months of the occurrence and proceedings under Section 174 Cr.P.C. were conducted by the police after statements of many persons were recorded. It is further submitted that award passed by the Tribunal may be set aside and the matter be remitted to the Tribunal for decision of the case afresh after permitting the appellants to adduce additional evidence by examining the aforesaid two witnesses.

Counsel representing minor claimant (Guardian ad litem appointed by this Court) has seriously contested plea of the appellants with regard to their entitlement to adduce additional evidence and setting aside the award.

I have heard counsel for the parties, perused the paper book and records.

Contention raised by counsel for the appellants that the Tribunal adjourned the case on a number of occasions starting from 8.2.2016 to 25.2.2016 for the purpose of evidence of the respondents, is

borne out from records which shows that the Tribunal was in a haste to dispose of the case for the reasons best known. The application for additional evidence was filed by the appellants without any delay and the same is dated 29.2.2016, the date to which the case was adjourned after closing of evidence on 25.2.2016. A huge liability of more than Rs. 70 lakh has been fastened upon the appellants. Strict principles of law of evidence are not attracted to proceedings before the Claims Tribunal. Reasons that weighed in the mind of the Tribunal to reject the application for additional evidence are not well founded. Taking into consideration that there was serious contest between the claimants and private respondents on the factum of accident being the result of rash and negligent driving of the offending vehicle, to do complete justice to the parties, the Tribunal should have allowed the appellants to examine Gurtej Singh and Tirath Singh to counter case of the claimants-respondents. That being so, I find merit in contention of the appellants that findings of the Tribunal on issue No. 1 are liable to be set aside and the matter needs remittance to the Tribunal for decision of issue No. 1 afresh on the basis of materials already on record, additional evidence to be adduced by the appellants and rebuttal to additional evidence, if any, by the claimants. That being so, award passed by the Tribunal is liable to be set aside and ordered accordingly.

In view of what has been discussed hereinbefore, the appeal is partly allowed. Award passed by the Tribunal is set aside. The matter is remitted to the Tribunal for decision of the case afresh, after permitting the appellants to adduce additional evidence by examining Gurtej Singh and Tirath Singh and rebuttal evidence, if any, to be adduced by the claimants. Parties through their counsel are directed to appear before the Tribunal on

17.1.2020. The Tribunal shall put its best efforts to dispose of the case within a period of four months of parties putting in appearance. In the meanwhile, the appellants shall not dispose of any immovable property or withdraw any amount from their bank accounts except with leave of the Tribunal.

(Rekha Mittal)
Judge

18.12.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No