

In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 1568 of 1999 (O&M)

Date of Decision: 07.01.2020

Miss Loveleen

... Appellant(s)

Versus

Shamsher Singh and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Kanwardeep Singh Sodhi, Advocate
for Mr. S.S.Narula, Advocate
for the appellant(s).

Mr. Deepak Girotra, Advocate
for respondents No.1 & 2.

Mr. Sandeep Kumar Rana, Advocate
for respondent No.3.

Mr. Kulvir Narwal, Advocate
for respondent No.4.

Anil Kshetarpal, J.

Appellant (driver & owner of the scooter) has filed this appeal against the judgment passed by the learned Motor Accident Claims Tribunal, Rohtak dated 05.02.1999 on account of death of Kumari Kamlesh, who was travelling with the appellant as a pillion rider. The learned Motor Accident Claims Tribunal has held that appellant as well as Karambir and Naresh Kumar, driver and owner of the tractor were contributory negligent to equal extent. It has awarded an amount of ₹ 1,50,000/-. There is no appeal by the claimants for enhancement.

Learned counsel for the appellant has admitted that ₹ 50,000/-

has already been deposited by the appellant in discharge of her liability.

Learned counsel for the appellant has submitted that there is no evidence to prove that appellant was driving scooter, on which deceased was travelling as a pillion rider, in a rash and negligent manner. He, hence, submitted that the judgment passed by the learned Motor Accident Claims Tribunal is erroneous.

On the other hand, learned counsel appearing for the respondents have read over, in the open Court, the statements of appellant, who has appeared as RW.1. It is apparent from the reading of the aforesaid statement that she has withheld material facts from the Court and has not spoken correctly about the manner in which the accident had taken place. It is the case of the appellant that two boys were coming on a separate scooter in a very rash manner with high speed and struck the scooter being driven by the appellant resulting in the appellant losing balance and consequently, both the passengers falling on the ground. Appellant fell on left side of the road, whereas deceased Kamlesh fell on the right side of the road and was crushed by the wheel of trolley attached to a tractor. The details of the two boys, who were on a scooter, have not been disclosed. It is undisputed that the persons present had stopped the tractor. However, whereabouts of the aforesaid two boys, who were allegedly travelling on the tractor, are not forthcoming.

The details of the aforesaid scooter has also not been disclosed by the appellant.

The learned trial Court, after examining the evidence, has taken a probable view and held that the appellant is also contributory negligent as the deceased was travelling on the scooter as a pillion rider with the

appellant.

In these circumstances, this Court does not find any
ground to interfere.

Dismissed.

(Anil Kshetarpal)
Judge

January 07, 2020
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No