

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

Date of decision: 17.2.2020

1.

FAO No. 2580 of 2001(O&M)

Sita and others

.....Appellants

VERSUS

Ram Kumar and others

.....Respondents

2.

FAO No. 2582 of 2001(O&M)

Kamla @ Kamlesh and others

.....Appellants

VERSUS

Ram Kumar and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Adish Gupta, Advocate for the appellant.

Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, Advocate for the insurance company.

REKHA MITTAL, J.(Oral)

This order will dispose of FAO Nos.2580 and 2582 of 2001 as these have emerged out of the same award dated 08.03.2001 passed by the Motor Accidents Claims Tribunal, Faridabad (in short 'the Tribunal') whereby applications for grant of compensation has been allowed to the limited extent of granting Rs.50,000/- in each case under 'no fault liability' qua death of Bishan Singh and Ravi in an occurrence dated 22.05.1997.

The Tribunal negated plea of claimants that accident is the result of rash and negligent act of Ram Kumar – respondent No.1, driver of

tractor No.HR51-A-7281 on which deceased had traveled to Indira Complex, Old Faridabad to take diesel from the petrol pump.

Counsel for the appellants would argue that had the driver parked the tractor at a safe place in place of parking in a narrow gali in front of gate of the factory, the unfortunate incident could be avoided, therefore, rashness and negligence is liable to be attributed to driver of offending tractor and claimants may be allowed compensation by assessing loss of dependency as well as under conventional heads.

Counsel representing the insurance company, on the contrary, has supported findings of the Tribunal on issue No.1 rejecting plea of the claimants that accident had arisen because of rash or negligent act of the driver. It is argued that with regard to unfortunate occurrence due to blast in a chemical factory, FIR was registered against the owner/management of the said factory but eventually the accused in the said case have been acquitted of the offence charged against them. It is further argued that there is no evidence on record that any other place was available for parking of the tractor much less that there was any restriction with regard to parking of vehicles at the site in question or an indication that there was a chemical factory nearby, thus, it was not safe to park the vehicle at the spot.

I have heard counsel for the parties, perused the paper-book particularly the award.

The allegations raised in the claim application are noticed in sub-para (i) of para 2 of the award. The Tribunal, on a detailed consideration of materials on record has recorded its conclusion in para 10, reads thus:-

“10. Thus, a close scrutiny of the evidence consisting the statements of aforesaid witnesses examined by the parties goes a long way to show that at the time of occurrence of the explosion of chemicals and taking place of the blast in the factory, the tractor driver Ram Kumar could not visualize or had any knowledge of any such danger and as such he cannot be said to have omitted to perform duty of care to prevent fall of malba or splinters on the tractor trolley.”

I do not find any reason to differ with findings of the Tribunal on issue No.1 and accordingly the same are affirmed. As a natural corollary, the appellants cannot assert for grant of compensation with regard to loss of dependency and under conventional heads etc.

For the foregoing reasons, finding no merit, the appeals fail and are accordingly dismissed.

FEBRUARY 17, 2020
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no