

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

224

FAO-6204-2015 (O&M)

Date of decision: 02.03.2020

BALJIT KAUR AND ORS

... Appellants

Versus

KAMAL KAPOOR AND ANR

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Rajesh Gupta, Advocate for the appellants.
Mr. HS Thiara, Advocate and
Mr. Ramandeep Singh, Advocate for respondent No.2.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 23.09.2014 passed by the Motor Accidents Claims Tribunal, Ludhiana whereby application for grant of compensation on account of death of Baljit Singh has been dismissed, in view of findings on issue No.1, reads thus:-

Whether Baljit Singh died on 10.12.2010 in motor vehicle accident due to rash and negligent driving of the truck bearing No.PB-04-G-9367 being driven by respondent No.1?OPP

Perusal of findings of the Tribunal in para 7 of the award reveals that as per case of the claimants, the accident was witnessed by HC Harmit Singh and SPO Karanjit Singh but none of them was examined by the claimants.

Counsel for the appellants would pray that award passed by the Tribunal may be set aside and an opportunity may be provided to the claimants to examine the aforesaid witnesses or either of them to establish plea of claimants that accident is the result of rash and negligent driving of offending vehicle namely truck No.PB-04-G-9367 by Kamal Kapoor on the ill-fated day.

Counsel representing respondent No.2, on the contrary, would argue that as the claimants failed to adduce sufficient evidence at appropriate stage of the proceedings, they are not entitle to indulgence of the Court for adducing additional evidence particularly in the circumstances that they have not filed an application for additional evidence, till date. In

addition, it is argued that in the criminal trial based upon report submitted under Section 173 Cr.P.C., Kamal Kapoor has been acquitted of the offence charged against him.

Be that as it may, proceedings before the Tribunal are summary in nature. The provisions of Motor Vehicles Act, 1988 (in short 'the Act') providing for compensation are enacted to make good the loss the victim or victim family has suffered. The Tribunal owes an obligation to assess compensation even in a case where a report under Section 158 of the Act is received. As such, if claimants failed to summon HC Harmit Singh and SPO Karanjit Singh alleged eye-witnesses to the occurrence, the Tribunal should have examined those witnesses through process of the Court to reach at a logical conclusion if accident was caused due to rash and negligent driving of offending vehicle. In this view of the matter, I find merit in contention of the appellants and findings of the Tribunal on issue No.1 are set aside and the matter is remitted to the Tribunal for decision of the case afresh after examining at least one of the alleged eye witnesses to the accident.

In view of what has been discussed hereinbefore, the appeal is allowed. The 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 to discharge onus of issue No.1. The respondents shall be entitle to an opportunity to lead evidence in rebuttal. Parties through their counsel are directed to appear before the Tribunal on 16.04.2020. The Tribunal shall put its best efforts to dispose of the matter within a period of six months of the parties putting in appearance. The respondents shall be at liberty to raise an issue before the Tribunal with regard to the period for which the claimants shall be entitle to interest in case their claim eventually comes out to be successful. The Tribunal shall secure presence of respondent No.1.

02.03.2020

ashok

Whether speaking/reasoned:

Whether reportable:

(REKHA MITTAL)
JUDGE

Yes / No

Yes / No