

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

237

FAO-714-2016 (O&M)

Date of decision: 30.01.2020

RAJENDER SINGH

... Appellant

Versus

SUNDER SINGH & OTHERS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ajay Shekhawat, Advocate for the appellant.

REKHA MITTAL, J. (Oral)

Challenge in the present appeal has been directed against award dated 28.09.2015 passed by the Motor Accidents Claims Tribunal, Rohtak whereby claim for grant of compensation in respect of death of two buffaloes in a motor vehicular accident that took place on 19.2.2014 has been rejected.

The Tribunal while deciding issues No.1 and 2 taken up jointly has held in para 12, reads thus:-

12. On perusal of the evidence, it is evident that the claimant examined himself as PW1, who filed his affidavit Exhibit PW1/A, in his examination-in-chief. In cross-examination, the witness has admitted that it is correct that daily diary report Exhibit P1 has not been got lodged by him. He further admitted that it is correct that he is having no post-mortem reports of the buffaloes and that he is not having any documentary proof regarding death of above referred buffaloes. In the opinion of the Tribunal, the claimant has been unable to prove issues Nos.1 and 2 by leading cogent evidence as onus to prove the same was upon the claimant himself. The alleged accident had taken place on 19.2.2014 whereas the daily diary report has been lodged on 1.3.2014 being DD report No.10 and on that day too by respondent No.2-Azad Singh (owner of the vehicle). The claimant has not placed on record any medical document to show the cause the cause of death of the buffaloes. The postmortem of the said buffaloes ought to have been got conducted in order to show that the buffaloes had died in such an accident. The ownership of the buffaloes has not been proved by the claimant. If the post-mortem would have been conducted, the concerned doctor could have told before the Court regarding estimated costs of the buffaloes, age and their breeds and the reasons of the death. The claimants himself has not given any reason as to why the postmortem examination of the buffaloes was not got conducted. This Tribunal is of the opinion that since

evidence on record is not sufficient to grant compensation in favour of the claimant as claimed. Hence, it is held that the claimant has been unable to prove that the accident had taken place due to the use of vehicle No. HR-39B-7289 by its driver in which buffaloes of the claimant died. Further, it is held that the claimant is not entitled to any compensation as alleged. Hence, these issues are decided against the claimant.

Counsel for the appellant would argue that claimants produced documents Exs.P1 to P5 sufficient to establish his claim with regard to death of his two buffaloes on account of sustaining injuries in the accident dated 19.02.2014 as these buffaloes were carried in vehicle bearing No.HR-39-B-7289.

Perusal of the records would reveal that DDR in respect of occurrence dated 19.02.2014 was registered at the behest of Azad Singh on 01.03.2014. Though in the DDR, it is mentioned that two buffaloes were loaded in the aforesaid vehicle from Delhi for village Lohari but nothing has been mentioned therein that the buffaloes belonged to the appellant/claimant. Admittedly, no postmortem examination of the buffaloes that sustained injuries in the occurrence was conducted. The appellant did not examine Joginder Kalra who purportedly sold the buffaloes to the claimant but only a document Ex.P5 was produced on record. In the given circumstances, it can safely be held that the appellant failed to lead sufficient evidence to prove that buffaloes that sustained injuries in the occurrence belonged to him and he is entitle to compensation.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

30.01.2020

ashok

Whether speaking/reasoned:
Whether reportable:

(REKHA MITTAL)
JUDGE

Yes / No
Yes / No