

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

FAO-444-2022 (O&M)

CM-1020-CII-2022

CM-1021-CII-2022

Date of Decision: 22.02.2022

GENERAL MANAGER PRTC, PATIALA

...Appellant

Versus

ANITA DEVI AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Ms. Deepali Puri, Advocate
for the appellant.

ARUN MONGA, J. (ORAL)

CM-1020-CII-2022

Civil Misc. Application is allowed as prayed for.

Main case

Aggrieved with the award dated 08.09.2021 rendered by Motor Accident Claims Tribunal, Sangrur, Insurance Company has preferred the instant appeal.

2. Briefly stated, the facts of the case are that on 22.01.2020, at about 6:05 p.m., one Dhoda Ram was crossing the main road from Mangwal side on his bicycle, when a bus bearing registration No.PB19H-5569 being driven by driver/respondent No.1 at a high speed, came from Patiala side and struck against his bicycle. As a result thereof, he fell down and sustained multiple injuries. He was taken to Civil Hospital, Sangrur, where from he was referred to Rajindra Hospital, Patiala and he was declared dead there.

The postmortem examination was got conducted. On the basis of statement

of one Sh. Jagtar Singh, FIR No.12 dated 23.01.2020 under Sections 279 and 304-A of Indian Penal Code was registered at Police Station, Sadar Sangrur. The claim petition claiming compensation of Rs.30,00,000/- was filed by the claimants, who are wife and children of deceased Dhoda Ram.

3. Upon notice, respondents No.1 and 2 appeared and filed joint written statement taking preliminary objections regarding maintainability. They further submitted that the FIR has been registered at the behest of complainant just to claim compensation. On merits, it was averred that no accident ever took place.

4. From the pleadings of parties, following issues were framed by the learned Motor Accident Claims Tribunal :-

(1) Whether on 22.01.2020, Dhoda Ram met with an accident with bus bearing registration no.PB-19-H-5569 driven by respondent no.1 rashly and negligently which resulted to his death? OPA

(2) Whether the claimants are entitled to receive compensation. If so to what amount and from whom? OPA

(3) Whether the petition is not maintainable in the present form? OPR

(4) Relief.”

5. On the basis of evidence adduced by both the parties, Issues No.1 to 3 were decided in favour of the claimants and against respondents.

6. Heard.

7. The learned Tribunal allowed the claim, *inter alia*, premised on the reasoning, the relevant extract thereof is as under :-

“10. As per the claim of the claimants, Dhoda Ram died in a motor vehicular accident, which took place on 22.01.2020. The claimants alleged negligence on the part of respondent No.1 while driving bus in question, while respondents no.1 and 2 have contended that no accident took place with their bus. But, his mere bald contention cannot be taken as a gospel truth. Although, Jagtar Singh eye witness (CW-2) neither disclosed the number of the offending vehicle nor name of the driver thereof, yet Narinder Singh (CW-3) deposed so being present on the spot. They made statements on oath in the Court

attributing negligence on the part of driver of offending bus. They have successfully stood the tests of their cross-examination so far as the facts deposed by them and nothing came on record, which may disprove the death of Dhoda Singh in the motor vehicular accident at the relevant time. Further, FIR Ex.C1 was registered against an unknown person and negligence was imputed to driver of government bus therein. During investigation by the police in criminal case, the number of offending vehicle came into light to be PB19H-5569 and the name of its driver as respondent no.1. The postmortem report (Ex. C2) also reveals the history of the case as accident. After investigation, the police presented challan/report under Section 173 Cr.P.C (Ex. C3) against respondent no.1. GM, PRTC, Barnala through Darshan Singh took the offending bus on sapurdari vide sapurdaginama Ex. C6 and order Ex. C4 passed in application Ex. C5. In the FIR, the colour of offending bus is depicted as yellow (orange). Above all, the respondents themselves produced copies of particulars of bus no.PB19H-5569 as Ex. R1, is RC as Ex. R2, fitness certificate as Ex. R3, renewal of fitness certificate as Ex. R4, route permit as Ex. R5, duty roster of conductors and drivers as Ex. R6, Yard control register inward/outward as Ex. R7, photographs of the offending bus as Ex. R8 and Ex. R9 showing its colour as orange and registration number as PB19H-5569. These documents clearly proves involvement of said bus in the accident and driving thereof at the relevant time by respondent no.1. In these circumstances, registration of FIR against unknown person and utterance of a different colour/type of the bus by Jagtar Singh (CW-2) and Narinder Singh (CW-3) are hardly of any significance. xxx xxx xxx

11. xxx In this context, the record reveals that the deceased was crossing main road from Mangwal side, when the offending vehicle struck against him. Meaning thereby that its driver could not control the vehicle on seeing he deceased in front of him. Had he been vigilant, he could have easily averted the accident with the application of brake of the vehicle. It clearly establishes his negligence in driving the vehicle. Moreover, in terms of Section 166 of the Motor Vehicle Act, the Tribunal is not required to hold a regular trial. Rather, according to the scheme of the Act being a welfare beneficial legislation, award of compensation is to be made on the basis of preponderance of probabilities. Thus, the evidence and circumstances on record are sufficient enough to repel the contention of the learned counsel for respondents and prove that respondent no.1 was driving the PRTC bus in question rashly and negligently and caused the accident on 22.01.2020, wherein Dhoda Ram died. As Dhoda Singh died in a roadside accident, the instant petition is very much maintainable. xxx”

8. Having gone through the reasoned award rendered by the Tribunal and the findings therein as reproduced above, I do not find any ground to interfere.

9. Even otherwise, during pendency of instant appellate proceedings, following order dated 07.02.2022 was passed :-

*“On a Court query as to the outcome of the criminal proceedings and the findings rendered therein qua the offending vehicle involved in the accident, learned counsel for the appellant seeks some time to get instructions.
At her request, adjourned to 15.02.2022.”*

Pursuant to aforesaid, learned counsel for the appellant states that having checked the records, it has been found that on the fateful day when the accident took place, the offending vehicle belonging to the appellant-Corporation was indeed plying on the same route. In the premise, therefore, it stands established that the argument qua the bus not being involved in view of the specific findings rendered by the Tribunal below, do not stand the judicial scrutiny.

10. Dismissed.

11. Pending application, if any, shall also stand disposed of.

February 22, 2022
gurpreet

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No