

In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 684 of 2019

Date of Decision: 13.12.2022

Bobi and Others

... Appellant(s)

Versus

Satya Narain alias Bhinder and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. J.P.Sharma, Advocate
for the appellant(s).

Anil Kshetarpal, J.

1. The claimants assail the correctness of the award passed by the Motor Accidents Claims Tribunal (hereinafter referred to as “the Tribunal”) while dismissing their claim petition.

2. Late Sh. Narpal Singh son of Sh.Om Parkash is stated to have died in an auto-mobile accident on the intervening night of 11.11.2016 and 12.11.2016. It is the case of the claimants that deceased, late Sh.Narpal Singh, was travelling in the tractor-trolley, owned and driven by the respondent No.1, however, he fell down from the same and was mowed down under the same tractor. In this case, an FIR was registered on 12.11.2016 around 2.00 P.M. by the Sarpanch of the village, namely Sh.Satyawan. The registration plate number of the tractor was not disclosed in the FIR. After a period of 18 days, PW.4 Sh.Sunder, a co-villager, disclosed the registration plate number of the offending vehicle allegedly involved in the accident.

3. Sh. Sunder has appeared before the Tribunal as PW.4. The Tribunal has recorded the following findings of fact on appreciation of the evidence:-

“16. From the police investigation report (Ex.P2), it is clear that police implicated the alleged offending vehicle and respondent no.1 on the basis of statement of PW4 Sunder which was recorded after 18 days of the alleged accident. Therefore, the question for determination is whether the statement of PW4 Sunder is reliable. PW4 Sunder, deceased Narpal and respondent no. 1 were co-villagers and they belong to village Kalinga. Dead body of deceased Narpal was found on the bus stop of village Kusumbi in the morning of 12.11.2016. It apparently shows that deceased Narpal was hit by any vehicle during intervening night of 11.11.2016 and 12.11.2016. PW4 Sunder has deposed that on 11.11.2016, he and respondent no. 1 called Narpal from his house to load fodder from the fields for unloading it at village Keharpura. He has also deposed that on the way from village Kalinga to Keharpura, Narpal fell down from the tractor which was being driven by respondent no. 1 in rash and negligent manner. In cross-examination he stated that he does not know the date, month and year when the alleged accident took place. He has admitted that deceased Narpal was residing in second Panna of village Kalinga. He has stated that he went to Police Station Sadar Bhiwani after eighteen days of the accident and then his statement was

recorded. He has not explained as to why he did not tell the family members of the deceased or the police about the registration number and the driver of the alleged offending vehicle for a period of eighteen days. Although he has stated that owner of the tractor had threatened him not to tell any person about the accident in question, but this statement of PW4 is not believable. If PW4 Sunder and deceased Narpal had been travelling on the alleged offending vehicle on the date of accident, PW4 Sunder must have told the family members of the deceased about the accident on the same day. PW4 Sunder has not disclosed at what time the accident took place. The dead body of Narpal was found near bus stop of village Kusumbhi. Many villagers remain present at the bus stop and if Narpal had fallen from the alleged offending vehicle someone must have witnessed the accident and would have informed the police.

17. According to the petitioners, respondent no.1 was taking his tractor to village Keharpura for unloading fodder but no witness has been examined from village Keharpura to prove that the respondent no.1 had unloaded fodder in that village on the date of accident. PW4 has stated in his cross-examination that a Panchayat was convened at village Kalinga and respondent no. 1 had disclosed about the accident in question and on that basis he had given the statement to the police. He has also not disclosed the date on which the Panchayat took

place in the village. PW1 Bobi, who is wife of late Narpal, has also not stated that any Panchayat took place in the village in which the respondent no.1 disclosed about the accident in question. PW2 Satyawar and PW3 Durga Dass are residents of village Kusumbhi and they have stated that they heard on 12.11.2016 that dead body of a person was lying near the bus stop, therefore, their statements are not relevant to prove that the accident in question was caused by respondent no.1.”

4. Heard the learned counsel representing the appellant at length and with his able assistance, perused the judgement passed by the Tribunal.

5. On the request of the Court, the learned counsel representing the appellant has supplied on a copy of the deposition of PW.4-Sh.Sunder. It is evident from the reading thereof that he has tried to avoid answering most of the questions by claiming to be illiterate. On being questioned about the registration plate number of the tractor, he stated that he cannot recall the registration plate number of the tractor. He claims to be sitting on the tractor along with the deceased, namely Sh.Narpal Singh. He has admitted that he also fell down from the tractor along with Sh.Narpal Singh, however, he did not bother to check “Whether Sh.Narpal Singh was dead or alive?” He did not immediately inform the police and the family members of Sh.Narpal Singh about the incident. The body of Sh.Narpal Singh was found by the villagers in the morning. He never disclosed about the accident to any other person. There is no explanation that after falling down from the tractor, Sh.Sunder took any steps either to remove the deceased to hospital or inform about the accident to any co-villager.

appreciation of the evidence. The claimants are required to prove not only the involvement of the tractor bearing registration plate No. HR-16-R-6334, but they are also required to prove that the respondent No.1 was rash and negligent while driving the vehicle at the relevant time.

6. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned award. Hence, the present appeal is dismissed.

7. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

December 13, 2022

“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No