

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(215)

FAO No. 164 of 2019 (O&M)
Date of Decision : 05.01.2023

Radha Rathi and another

...Appellants

Versus

Paramjeet Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Shiv Kumar, Advocate for the appellants.

Mr. Ashwani Talwar, Advocate for respondent No. 2.

Harsimran Singh Sethi J. (Oral)

In the present appeal, the challenge is to the order of the Motor Accident Claims Tribunal, Rewari dated 04.12.2018 by which, the claimants have been given compensation under Section 140 of Motor Vehicles Act amounting to ₹50,000/- in equal shares along with interest @ 9% per annum from the date of filing of the petition till realization of the compensation.

Learned counsel for the appellants argues that the finding, which has been recorded by the Tribunal that the driver of the offending vehicle was not negligent, is incorrect keeping in view the statement of one independent witness, namely, Vijay Kumar, who had appeared before the Tribunal as PW4. Learned counsel for the appellants submits that testimony of the said witness has not been appreciated in a correct perspective to hold

the driver of the offending vehicle i.e. Truck bearing Registration No. RJ-02GB-3621 as negligent. Learned counsel for the appellants has produced the statement of PW4, which statement has been accepted by learned counsel for the respondents as correct to be taken into consideration by this Court so as to adjudicate the prayer of the appellants.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The only ground, which has been raised in the present appeal is that the Award of the Tribunal dated 04.12.2018 does not appreciate the statement of the independent witness, namely, Vijay Kumar, who has appeared as PW4 in a correct perspective to hold the driver of the Truck bearing Registration No. RJ-02GB-3621 as negligent so as to award the compensation for which the claimants are entitled for. The statement, which has been given by PW4, Vijay Kumar is vague. As per the said statement, the said witness was standing at a Bus Stand for onward journey towards Jaipur. Though, in the affidavit, it has been mentioned that the driver of the Truck having Registration No. RJ-02GB-3621 was driving in a rash and negligent manner at a high speed and the accident resulted when the driver of the said Truck applied breaks but in the cross-examination, the said witness conceded that the vehicle was at the speed of 80 km. per hour and that too on a highway. Further, the said witness conceded in the cross-examination that he is not able to tell the distance between the Car and the Truck immediately prior to the application of break by the Truck driver. That being so, in case the Truck was moving at the speed of 80 km. per hour and the breaks were applied by the Truck driver, in case, a safe distance is

maintained by the vehicle following, the accident could have been avoided. Though, this Court is not opining upon the factum whether the deceased was negligent or not, but the findings of the Tribunal recorded in the Award are in consonance with the evidence, which has come on record and the statement of PW4, Vijay Kumar has been appreciated in a correct perspective.

Keeping in view the above, no interference is called for by this Court in respect of the Award challenged in the present appeal.

Dismissed.

CM-603-CII-2019

As the main appeal has been dismissed, the present application also stands dismissed.

January 05, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No