

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-158-1992 (O&M)
Date of decision : 21.11.2023

Rajinder Singh

...Claimant-Appellant

Versus

Tej Pal and others

...Respondents

FAO-159-1992 (O&M)

Jag Ram

...Claimant-Appellant

Versus

Tej Pal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellant(s).

Mr. Jagdish Manchanda, Addl. AG, Haryana.

AMAN CHAUDHARY, J.

1.
- The present appeals have been filed by the claimant-appellants for enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Ambala (for short ‘the Tribunal’) vide award dated 29.08.1991, on account of the injuries received by them in a motor vehicular accident.
2.
- These are reconstructed cases, as the original files got burnt in the fire that broke out in the concerned branch in the year 2011. Since the case is pending for the last more than 31 years, the State counsel has no

objection, in case the same is decided on basis of the available record.

3. It has been stated that appellant-Rajinder Singh, in FAO-158-1992, a 39 year old, had suffered severe grievous injuries and remained admitted in the hospital for 2 months and after discharge also, he used to go for follow up treatment. He was unable to continue with his work, while appellant-Jag Ram in FAO-159-1992, had suffered disability to the extent of 50%. In the grounds of both the appeals, it is averred that, the Tribunal has committed a grave error while dismissing the claim of the appellants and granted only a meager amount of Rs.12,000/- each under the head of 'No Fault Liability'. The claimants being the injured, their statements were sufficient to prove the accident.

4. Contrarily, the learned State counsel has opposed the present appeals by stating that the Tribunal rightly dismissed the claims of the appellant, on account of the fact that the claimants were unable to prove the accident and therefore, the present appeals may also be dismissed.

5. Heard learned State counsel and perused the record.

6. It is apposite to refer to the findings on the issue regarding negligence, as recorded by the Tribunal, which read thus:

“xx xx xx

12. From the evidence discussed above I find that the claimants had failed to prove that Tej Pal respondent Nos 1 driver of the bus was in any way responsible for the accidents PW4 Sohan Lal does not appear to be a truthful witness, There is no reliable evidence to prove that he was travelling in the bus on the day of accident. He could not produce any ticket of the bus to show that he was travelling in the bus. His name is not recorded in the medico legal report showing that he was the person who had accompanied the injured... It is, therefore, proved that Sohan Lal was not a witness of any such occurrence.

13. Now we are left with the statement of two claimants,

they could not give any satisfactory reason as to why the police had not recorded First Information Report if the driver of the bus was rash or negligent in driving the bus. He had stated that he had gone to Police Station Bilaspur but the police did not record the First Information Report. He did not explain on which date he had gone to the police station and whether he had complained to the higher authorities that his statement was not recorded by the police. The private complaint was lodged in the court of Judicial Magistrate Ist Class, Jagadhri after about two months of the accident and he has admitted that the police had not taken any action. He had, however, admitted that the police had examined him. He had further stated that he does not know whether the police sent back its findings after investigations to the learned Magistrate where the said complaint had been dismissed. The medicolegal report of claimant Rajinder Singh indicates that there was smell of alcohol in his breath. This indicated that Rajinder Singh was in drunken condition at the time of accident and the smell of alcohol was still coming from his mouth when he was examined in Civil Hospital Jagadhri. The copy of M.L.R. Ex.PW3/1 had been produced by the claimants themselves and so it is their own evidence.

14. For the same reasons the statement of claimant Jag Ram is not at all reliable. He had stated in his cross examination that he had never appeared before the police nor the police had questioned anything from him, That means that he never took any pain for getting the matter reported to the police, although he had stated in his claim petition that the police had not registered the case and a criminal complaint had been filed in the court of Judicial Magistrate Ist Class, Jagadhri. The two claimants have, therefore, made only a self serving statement and cannot be relied upon in the fact of reliable statement of Tej Pal and the fact that no case was got registered by any of the claimants. The statement of Tej Pal driver of the bus is supported by Garib Dass conductor of the bus. The statement of the driver and conductor are quite reliable and there is no reason to disbelieve them.

15. For the reasons discussed above, I, therefore, hold that the claimants have failed to prove that the accident had taken place due to rash and negligent driving of the Haryana Roadways bus by its driver Tej Pal. This issue is, therefore, decided against the claimants.

7. A reading of the above makes it explicit that there was no cogent and convincing evidence led so as to prove that the accident in

pending litigation unless the legislature has enacted otherwise, either expressly or by necessary implication.

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26. ...We, therefore, are clearly of the opinion that the 1988 Act does not have any retrospective operation.”

9. In view of the above, the present appeals being bereft of merits are dismissed.

10. A copy of this order be placed on the connected case.

21.11.2023
gsv/ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No