

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) FAO-1490-1996 (O&M)

Pritam Kaur alias Prito and others
...Appellants

VERSUS

Piara Singh and others
...Respondents

(ii) FAO-1491-1996 (O&M)

Pritam Kaur alias Prito and others
...Appellants

VERSUS

Amarjit Singh and others
...Respondents

Date of Decision: August 09, 2023

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.H.K.Brinda, Advocate,
 for the appellants.

 Mr.G.P.Vashisht, Advocate
 for respondents No.1 and 2.

 Mr.Vinod Gupta, Advocate
 for respondent No.3-insurance company.

ARCHANA PURI, J.

These are two appeals, filed by owners of the truck bearing registration No.PAT-9494, thereby, assailing the Award dated 04.12.1995 passed learned Motor Accident Claims Tribunal (hereinafter referred to

‘Tribunal’), thereby, granting compensation, vis-a-vis, death of Jaswinder Kaur and Bimla Devi, in a motor vehicular accident, which took place on 13.05.1992.

FAO-1490-1996 relates to the Award passed qua death of Jaswinder Kaur and FAO-1491-1996 related to the Award passed qua death of Bimla Devi.

Two separate claim petitions were filed to seek compensation, on account of death of Jaswinder Kaur and Bimla Devi. However, these were consolidated and evidence was adduced and thereupon, the impugned Award was passed.

For the convenience of the discussion, the parties are referred to as making appearing before the Tribunal.

The essential facts are as follows:-

That on 13.05.1992, Jaswinder Kaur along with Bimla Devi and Manjit Kaur was coming from village Ban Majra on Kurali Ropar road towards their fields. At about 4.00 p.m., one truck bearing registration No.PAT-9494, driven by Jagtar Singh, came from the opposite side from Ropar, which was being driven rashly and negligently. The said truck hit Jaswinder Kaur and Bimla Devi, while coming on the wrong side. As a result of the accident, Jaswinder Kaur died at the spot and Bimla Devi received multiple injuries, which later on led to her death at PGI, Chandigarh. The accident had occurred due to rash and negligent driving by Jagtar Singh. The truck driver, after striking both the aforesaid persons, ran away. The information reached the police and they promptly swung into action and intercepted the truck driver, before he could disappear.

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Both the claim petitions were contested by the respondents. Respondents No.1 to 3, in their reply, had disputed the maintainability of the claim petitions. In fact, truck bearing registration No.PAT-9494 was driven by respondent No.2-Gurinder Singh, on 13.05.1992, when it was coming from village Dhakoran situated at Kurali-Shishaman road and was going to Morinda and it was intercepted by the police. The truck was never involved in the alleged accident. On the day of alleged accident, the truck was busy in marriage at village Gagarwal. The truck was proceeding back after delivering dowry articles of the marriage at village Dhakoran. Jagtar Singh was never driver of the said truck. He has been falsely involved in the case and no criminal proceedings were initiated under Sections 279 and 304-A IPC.

Jagtar Singh-respondent No.4, in his written statement, has alleged the version of the accident, to be false and fabricated one. He stated that he was never a driver of truck bearing registration No.PAT-9494.

Respondent No.5-insurance company also in its reply had asserted the version put forth by the claimants to be false and fabricated, only to seek compensation. No such accident had taken place with truck bearing registration No.PAT-9494. It is further stated that driver of the truck, was not having a valid driving licence, at the time of alleged accident and the truck was not insured with the answering respondent.

On appraisal of the evidence adduced, learned Tribunal reached the conclusion of involvement of the truck bearing registration No.PAT-9494, belonging to respondents No.1 to 3, in the accident in question. It also concluded that the truck was driven by Gurinder Singh, at the relevant time

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of accident, thereby, causing fatal injuries, on the person of Jaswinder Kaur and Bimla Devi. It also reached the conclusion of Gurinder Singh to be not holding valid driving licence. Consequently, thereby, granted compensation to the extent of Rs.70,000/-, vis-a-vis, death of Jaswinder Kaur and Rs.1 lakh, vis-a-vis, death of Bimla Devi. However, claim petitions qua Jagtar Singh and insurance company was dismissed.

Feeling aggrieved, respondents No.1 to 3, LR's of Daljit Singh, owner of truck bearing registration No.PAT-9494, have filed the present appeals.

Learned counsel for the parties heard.

At the very outset, it has been submitted by learned counsel for the appellants that fact of accident, involvement of truck bearing registration No.PAT-9494 as well as role assigned to Gurinder Singh, as such, does not stand established. In fact, it is submitted that there are gaps, coming forth, in the version put forth by the claimants. Thus, the findings, so recorded by learned Tribunal are palpably erroneous.

In this regard, it is submitted that it is the case of the claimants, about the truck to be driven by Jagtar Singh, but however, learned Tribunal, out of blue, concluded about said truck to be driven by Gurinder Singh. Learned counsel for the appellants submitted that learned Tribunal had relied upon statement of Kuldip Singh PW-1, who nowhere is established to have witnessed the accident in question. In fact, his testimony is not credible and trustworthy. Rather, learned Tribunal wrongfully discarded the testimony RW-6 Balwant Rai, who had investigated the matter and reached the conclusion about non-involvement of the truck in question. In fact, he has

deposed about the untraced report to have been prepared qua alleged accident, which has also been overlooked by learned Tribunal. Also, learned counsel for the appellants relied upon *Radha Prasad Singh vs. Gajadhar Singh and others, 1960 AIR (SC) 115* to assert that the Appellate Court can reverse the findings of the lower Court, when the important consideration, having bearing on the question of credibility, has not been taken into account or inappropriately weighed by the lower Court. Thus, a submission has been made for acceptance of both the appeals.

On the contrary, learned counsel for the respondents-claimants has assiduously refuted the submissions made by learned counsel for the appellants. In fact, learned counsel for respondents-claimants submitted that even though, claim petition was filed against Jagtar Singh, in the capacity of being driver of the truck in question, but however, from the circumstances spelt out in the evidence, it stands established that it was in fact, Gurinder Singh, who was driving the truck in question, at the relevant time and the shady account of the denial of accident, stands established from the testimonies of the witnesses produced by the respondents-claimants. As such, it is submitted that submissions, so made by learned counsel for the appellants, is bereft of merits and the same be discarded and the appeals be dismissed.

Very true, as so pointed by learned counsel for the appellants that learned Appellate Court can re-look upon the evidence, if it feels that lower Court/Tribunal has given amiss or reached palpably wrong conclusion and thus, findings can be reversed. Before proceeding further, it should kept in mind that Motor Vehicles Act is a benevolent piece of legislation and

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therefore, in the claim petition, before the Motor Accident Claims Tribunal, the standard of proof is much below than what is required in a criminal case as well as in a civil case. Undoubtedly, the enquiry before the Tribunal is a summary enquiry and, therefore, does not require strict proof of liability. Nonetheless, learned Tribunal can conclude about the manner of accident, not only on the basis of statement got recorded by the claimants, but also, from the circumstances spelt out, from the evidence, brought on record by the claimants as well as respondents.

To establish the factum of accident and the manner of causing of the same, the claimants have examined Kuldip Singh as PW-1. He has categorically deposed about his proceeding from Kurali by road on foot on 13.05.1992, at about 4.15 p.m., while his wife was going ahead of him. Jaswinder Kaur and Bimla Devi were following her and he also deposed that the truck came from the Ropar side. It was driven by Jagtar Singh, at a rash speed. He came to know about the name of the driver afterwards. He also deposed that the truck struck against Jaswinder Kaur and Bimla Devi, while coming on the wrong side. He further deposed about Jaswinder Kaur to have died instantaneously and Bimla Devi, died later on in the hospital. He categorically deposed about the accident to have taken place due to negligence of the truck driver and the truck driver, ran away from the spot. The truck was apprehended by Morinda police, while going in a gypsy. He also deposed that number of the truck was PAT-9494.

Besides the aforesaid witnesses, even claimant Amarjit Singh and Piara Singh had also been examined as PW-2 and PW-3 respectively. However, for this issue in hand, their statements are not of any relevance, as

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they were not present at the spot. Besides the same, copy of FIR has been proved as Ex.P1 and copy of post-mortem reports of both the deceased are Ex.P2 and P3.

To rebut the aforesaid evidence, the appellants had examined RW-1 Sardara Singh from Police Station Kurali, who deposed about FIR No.18 to have been registered on 13.05.1992 and after investigation, it was found that truck bearing registration No.PAT-9494 was not involved in the accident. He also deposed about untraced report to have been sent on 02.02.1994. RW-3 MHC, Kurali proved the copy of FIR Ex.R2. He also deposed in cross-examination that driver had ran away with the vehicle from the spot and he also deposed that number of the truck, which was involved in the accident was PAT-9494.

Next witness examined by the appellants is RW-4 Gurinder Singh, who has categorically deposed that on 13.05.1992, after delivering the dowry articles of marriage, he was coming back from Dhakoran and was proceeding to Morinda, via Kurali. When, he was passing from a place near Bus Stand Morinda, one gypsy came from backside and intercepted his vehicle and they stated that he had committed the accident, which was denied by him. He also deposed that he himself was driving the truck and then the police had taken him to Police Station Kurali. Balwant Rai, after conducting enquiry had made him free. The police had also not taken the truck in question. He denied about involvement of the truck in question in the accident.

RW-5 Bachhitar Singh has deposed about accompanying Gurinder Singh in the truck in question on 13.05.1992 and further deposed

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that about manner of truck returning back to Morinder, after delivering the articles of marriage. He also deposed about the manner, the police stopped them. Next witness examined is RW-6 Balwant Rai, who deposed about having conducted the investigation in case FIR No.18 dated 13.05.1992, Police Station Kurali. He also deposed that no challan was presented qua truck bearing registration No.PAT-9494.

From the FIR Ex.P1, it is evident that accident had taken place on 13.05.1992 at about 4.30 p.m.. Intimation was received by the police officials at about 6.05 p.m. and soon after, they had proceeded to the spot and recorded statement of Manjit Kaur and police proceedings were conducted, which concluded at about 6.50 p.m. Thus, the police swung into action without any further delay. One thing is very certain that FIR was lodged with promptitude by Manjit Kaur. Undisputedly, as so pointed out by learned counsel for the appellants that Manjit Kaur has not been examined. Kuldeep Singh has been examined as PW-1. Very true, as so pointed out by learned counsel for the appellants that his presence is not spelt out from the recitals of the FIR, but however, this is not sufficient to discard statement of Kuldeep Singh. As already observed aforesaid, Kuldeep Singh had specifically deposed on oath, thereby, imputing rashness and negligence, on the part of driver of truck bearing registration No.PAT-9494, which caused the accident and resulted into fatal injuries, on the person of Jaswinder Kaur and Bimla Devi. His presence, as such, at the spot and having witnessed the accident, has remained unchallenged. No cross-examination, as such, has been conducted, to dispute about his presence, at the spot and having witnessed the accident. No such suggestion has been given to challenge the version of

having witnessed the accident. In these circumstances, his testimony, on oath, as such, cannot be discarded.

Moreover, the testimony of Balwant Rai RW-6, as such, also does not inspire confidence. However, from his testimony, one thing becomes clear that soon after the accident, the truck was intercepted. The truck was being driven by Gurinder Singh. Though, Balwant Rai had stated about having conducted a probe, about the accident and the involvement of the truck, but however, the enquiry so made, was not just and appropriate. He made the driver free, on the same day, without taking into consideration, the statement of the eye witnesses. In fact, RW-5 Bachhitar Singh, specifically deposed, as observed aforesaid, about accompanying Gurinder Singh, at the relevant time, but however, he has also stated that his statement was not recorded. By singular examination of Gurinder Singh, in what manner, he reached the conclusion of truck in question, not involved in the accident, has not been stated by the said witness.

The untraced report, which is stated to have been prepared, has not been brought on record. Even, statement of Jagtar Singh was not recorded. It, thus shows that the matter was given a quietus in a hush-hush manner.

Considering the testimony of the witnesses, in entirety, learned Tribunal had correctly reached the conclusion about Gurinder Singh, in fact, to be driving truck bearing registration No.PAT-9494, at the relevant time of accident and caused the accident, on account of rash and negligent driving, which resulted into death of Jaswinder Kaur and Bimla Devi. Thus, this Court concurs with the findings of learned Tribunal, with regard to issue

No.1.

Even, in the appeals in hand, the appellants have disputed the liability, solely fastened upon them and claim petitions having dismissed qua insurance company. It is submitted that in fact, Gurinder Singh was holding valid driving licence. No satisfactory evidence has been brought on record by the insurance company to establish vice-versa. However, this submission is bereft of merits. The driving licence of Gurinder Singh has been proved as Ex.R2, which is stated to be valid from 13.08.1990 to 12.08.1992. However, the insurance company has examined RW-2 Arun, from the office of RLA, Solan, who had deposed about the register brought by him, to be not containing entry of issuance of the said driving licence. He has categorically stated that he had seen the copy of the driving licence, which does not bear signatures of any official of their office.

In the given circumstances, the driving licence of Gurinder Singh, is established to be fake and fabricated one and that too, of the owner. Consequently, the insurance company has been rightly exonerated by learned Tribunal.

In the light of aforesaid observations, both the appeals sans merit and are hereby dismissed.

August 09, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No