

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(209)

FAO No. 632 of 2001

Date of Decision : 27.01.2023

Kamlesh Devi

...Appellant

Versus

Surinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gautam Kaile, Advocate for the appellant.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Mr. Rajbir Wasu, Advocate for respondent No. 6-Insurance Company.

Harsimran Singh Sethi J. (Oral)

In the present appeal, the challenge is to the order dated 07.01.2000 passed by the Motor Accident Claims Tribunal, Rohtak by which, the claim filed by the appellant-claimant qua alleging the death of Balwan Singh in the alleged accident, which took place on 15.07.1997, was dismissed on the ground that the appellant-claimant failed to prove the alleged accident in question.

Learned counsel for the appellant-claimant submits that the evidence, which was already on record, has not been taken into account to record the finding on Issue No. 1 that there was no accident involving the Bus as well as the driver in question on 15.07.1997 by discarding the testimony of PW2-Prem Singh.

Learned counsel for the respondent-Insurance Company submits that the testimony of PW2-Prem Singh has been discarded by giving due facts and reasons, therefore, the Award of the Motor Accident

Claims Tribunal, Rohtak dated 07.01.2000 is liable to be maintained.

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

The discussion on Issue No. 1 has been dealt in detail by the Tribunal. All the facts including the date and timing of the accident as well as the testimony of PW2-Prem Singh has been noticed while recording the finding. The testimony of PW2-Prem Singh has been rejected on the ground that he conceded that he was a distant relative of deceased Balwan Singh and both belonged to the same village but nothing has been stated by the said Prem Singh as to why he did not accompany the injured to the hospital even after witnessing the accident, wherein the deceased had suffered serious injuries.

Keeping in view the totality of the circumstances and the evidence, which had come on record, the Tribunal held that the claimants have failed to prove that there was an accident involving the Bus and the driver in question and the testimony of PW2-Prem Singh is not trustworthy to be accepted and the said finding need no interference by this court in the appeal.

Learned counsel for the appellant-claimant has not been able to point out as to how, the findings recorded by the Tribunal are perverse to the facts or the evidence, which have come on record.

In the absence of any perversity being pointed out, no interference is called for by this Court in the present first appeal and the same is, accordingly, dismissed.

January 27, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No