

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.2343-2002 (O&M)
Date of decision: 27.01.2023

Ved Pal ...Appellant(s)

Vs.

R.B. Vibhuti & Others ...Respondent(s)

FAO No.2344-2002 (O&M)
Date of decision: 27.01.2023

Sohan Lal ...Appellant(s)

Vs.

R.B. Vibhuti & Others ...Respondent(s)

FAO No.2345-2002 (O&M)
Date of decision: 27.01.2023

Shanti Devi & Others ...Appellant(s)

Vs.

R.B. Vibhuti & Others ...Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Tara Chand Dhanwal, Advocate for the appellant(s).

Ms. Monica Chawla, Advocate and
Mr. Anil Chawla, Advocate for respondents.

NIDHI GUPTA, J.

This order shall dispose of three appeals arising out of same

Award dated 18.08.2001 passed by Motor Accident Claims Tribunal, Hisar

(hereinafter referred to as “the learned Tribunal”) in FAO-2343-2002 arising

out of MACT Case No.69 of 1998, FAO-2344-2002 arising out of MACT Case No.71 of 1998, and FAO-2345-2002 arising out of MACT Case No.72 of 1998. All Present appeals have been filed by the claimants seeking setting aside of the impugned Award, and that claim petitions of the appellants be allowed, and respondents be directed to pay the compensation as prayed for. For the sake of convenience and with the consent of learned counsel for the parties, facts, which are even otherwise common, have been taken from FAO-2343-2002. As common question of law and fact are involved in all the appeals, the same are being disposed of by common order.

It is the pleaded case of the appellants that on 05.10.1996, appellants Ved Pal and Sohan Lal along with Dharam Singh (deceased), Rajender, Ram Narain and Azad Singh were going to village Mehrana, on Hisar-Delhi GT Road in jeep No.HR-23-3777 which was being driven by driver Kartar Singh, when a military Jonga bearing No.93-B-56804-Y (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1 herein L/N R.B. Vibhuti, came from opposite side and struck the jeep in which the appellants, along with other persons mentioned hereinabove, were travelling.

It was stated that appellant Ved Pal received multiple grievous injuries on his body and his leg was also fractured.

One of the aforementioned occupants of the jeep, Dharam Singh, died at the spot. Claimants in FAO-2345 of 2002 are the widow and two sons of deceased-Dharam Singh.

Claimant Sohan Lal suffered fracture of spinal cord and he had to be operated upon.

It was the pleaded case of all the claimants before the learned Tribunal that the said accident had occurred due to rash and negligent driving of offending vehicle being driven by respondent No.1.

Learned Tribunal on the basis of materials and evidence placed before it concluded that the accident in question was not caused by the rash and negligent driving of offending vehicle being driven by respondent No.1. Though the Learned Tribunal assessed compensation in respect of each claim petition, however, the same could not be granted to the claimants as respondents were not held to be negligent and were therefore, not liable to pay the compensation as assessed. In this view of the fact, all the claim petitions were dismissed with costs.

It is submitted by learned counsel for the appellants that the claimants had suffered grievous injuries inasmuch as claimant Ved Pal had suffered fracture of leg and injuries all over his body. It is further submitted that before the accident in question, Ved Pal was studying in ITI and was doing diploma in Stenography. However, due to the injuries suffered by him, he became handicapped and permanent disabled person and he could not study and one year was wasted. It is further submitted that he was admitted in Civil Hospital, Hisar from 05.10.1996 to 07.10.1996, after which he was shifted to hospital of Dr. Ram Jain at Hisar where he remained under treatment for one-and-a-half months. On basis of the evidence led, Learned Tribunal assessed a sum of Rs.20,000/- as total compensation to Ved Pal.

As regards appellant Sohan Lal, it is submitted that he was referred to PGI Rohtak as his spinal cord was fractured and he is still bed

ridden and as such he required an attendant and therefore, an amount of Rs.10 lakh was claimed as compensation. Learned Tribunal assessed a sum of Rs.56,000/- as total compensation to appellant Sohan Lal.

In respect of compensation granted in FAO-2345-2002, it is submitted by learned counsel for the appellants that deceased-Dharam Singh was only 42 years of age at the time of accident and prior to his death, he was earning Rs.5,000/- per month from agriculture. It is further submitted that deceased was the only bread earner of the family and claimants/appellants were dependent on income of the deceased and therefore, prayed that an amount of Rs.5 lakhs be given as compensation to the claimants. Learned Tribunal assessed a sum of Rs.1,70,000/- as total compensation to legal heirs of deceased Dharam Singh.

It is also submitted by learned counsel for the appellants that claimants were coerced by the respondents for entering into a compromise as they were influential Army personnel.

In response, it is submitted by learned counsel for the respondents that date of accident is 05.10.1996 and claim petition was filed by the appellants on 28.08.1998. It is submitted that even no FIR was lodged in the case by the appellants. It is further submitted that the jeep in which the claimants and deceased were travelling along with some others, there was a person who was mental patient and accident had occurred as the said mentally ill person had suddenly taken hold of the steering wheel of the jeep as a result of which the driver of the jeep Kartar Singh lost control and the accident occurred.

It is further submitted that as per testimony of PW4 Dr. J.S. Bhatia, who was a member of the Medical Board that examined injured/claimant Sohan Lal, the finding was returned that he had Tuberculosis which resulted in weakness of all the four limbs. It has been opined by PW5 Dr. Hukam Chand Popli that 100% disability of the said appellant could be due to Tuberculosis. It was on this account that the learned Tribunal had granted Rs.40,000/- on account of permanent disability + Rs.10,000/- on account of special diet and transportation expenses as also Rs.6,000/- for medical expenses.

No other argument is raised on behalf of the parties.

I have heard learned counsel for the parties.

A perusal of record of the case shows that a categorical finding has been recorded by the learned Tribunal that the accident in question was “not” caused due to rash and negligent driving of offending vehicle being driven by respondent No.1. Learned Tribunal has given cogent reasons for recording this finding, and learned counsel for the appellants are unable to controvert the evidence on record to the effect.

The record shows that Rajender, who was a mental patient was sitting with Kartar Singh, who was driver of the jeep in which appellants/injured-claimants along with deceased Dharam Singh were travelling. Admittedly, said Rajender, mental patient was being taken to Rajasthan for his treatment, and that said Rajender had put his hands on the steering wheel due to which driver Kartar Singh lost control over the jeep, which hit against the offending vehicle.

This version of events is corroborated by statement of claimant/appellant Ved Pal himself who, during inquest proceedings, has admitted on record that the accident in question took place because mental patient Rajender suddenly caught hold of the steering wheel as a result of which driver Kartar Singh lost control of the jeep which hit respondents' Jonga. This statement is at page 5 of the inquest report and bears signatures of Ved Pal and this signature tallies with his signature at page 7 of the inquest report where he has received copy of the statement. In my considered view, from the above facts only, it stands established on record that the accident in question had not occurred due to rash negligent driving of respondent No.1, and therefore, the claimants are not entitled to compensation.

It is also the testimony of respondent No.1/RW1 L/N R.B. Vidbhuti that the claimants' jeep was being driven in a rash and negligent manner which hit against the offending vehicle/Jonga which he was driving at normal speed on his side of the road. It has been stated by RW1 that as a result of the impact, the jeep turned turtle. This version has been corroborated by statement of Colonel Inderjit Singh. Even inquest proceedings regarding death of deceased Dharam Singh have been placed on record which support version of the respondents.

Moreover, the fact that Kartar Singh driver of the jeep, was not produced in Court and was not even impleaded/arrayed as a party respondent in the claim petitions, further falsifies the version of the appellants.

Further, it is the statement of the appellants that no FIR was registered in the case because a compromise/ panchnama Mark-A was executed between the parties. This compromise was signed by Colonel Inderjit Singh, retired Lieutenant Colonel Balbir Singh, the local MLA, and one Risal Singh Sarpanch, and one Ram Chander. Clearly the compromise Mark-A has been signed by respectables. Thus, in my view, the case of coercion as sought to be put forward by the appellants is suspect, and unconvincing to say the least. Hence, there is no satisfactory explanation on record as to why the appellants did not lodge an FIR regarding the accident. Even no complaint was registered by the claimants in respect of the accident. The only conclusion that can be drawn in such a situation is because their version of the accident is false.

Learned counsel for the appellants is also unable to explain or give any reasons for the inordinate delay of two years in filing claim petitions.

Accordingly, in view of the facts as noticed above, I find no ground is made out to interfere in the impugned Award, as clearly, negligence on part of the respondents is not established.

Present appeals are therefore, hereby dismissed.

Pending application(s) if any also stand(s) disposed of.

27.01.2023

Sunena

(Nidhi Gupta)
Judge

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