

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-6304-CII-2023 in/&
FAO-3296-2016 (O&M)
Date of Decision :17.04.2023

Manju and others

..Appellants

Versus

Bhim and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep K. Sharma, Advocate for the appellants.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-6304-CII-2023

Present application has been filed for recalling the order dated 28.03.2023 passed by this Court by which, the main appeal was dismissed for non-prosecution.

Keeping in view the averments made in the application, which are duly supported by an affidavit, application is allowed. Order dated 28.03.2023 passed by this Court is recalled and the main appeal is ordered to be restored to its original number and status and is taken up for hearing today itself.

FAO-3296-2016

In the present appeal, challenge is to award dated 02.02.2016 passed by the Motor Accident Claims Tribunal, Rohtak by which, the claimants have only been awarded compensation of Rs.50,000/- under Section 140 of the Motor Vehicles Act, 1988 whereas, the claim raised by

the claimants under Section 166 of the Motor Vehicles Act, 1988 for the grant of compensation to the tune of Rs.25,00,000/- has been declined.

Learned counsel for the appellants argues that in the present case, keeping in view the registration of an FIR on the basis of the statement of the nephew of the deceased, the accident is proved. Learned counsel for the appellants submits that once the accident is proved, the natural corollary is that negligence on the part of the driver of the offending vehicle has led to the accident hence, the registration of an FIR and the death of the deceased in the said accident is good enough to grant the compensation to the claimants under Section 166 of the Motor Vehicles Act, 1988 whereas, the tribunal has wrongly held that there was no evidence on record to prove that driver of the offending vehicle was negligent in any manner so as to grant the compensation to the claimants under Section 166 of the Motor Vehicles, Act, 1988.

I have heard learned counsel for the appellants and have gone through the record with his able assistance.

It may be noticed that an FIR was registered on the basis of statement of one Amrit, who is alleged to be the nephew of the deceased- Vicky, who stated that he was with the deceased on the fateful day when they were standing on road after paying obeisance at Hanuman Temple when around 9 p.m., an auto-rickshaw being driven in a negligent manner stuck him as well as his uncle Vicky due to which, both of them sustained injuries and due to which injuries, his uncle Vicky died. The said eyewitness has not been examined to prove the facts mentioned in the FIR.

Further, no other evidence except registration of an FIR has been brought on record to support the allegations that the driver of the auto-rickshaw was

negligent in any manner. Proving the negligence is a must ingredient so as to claim compensation under Section 166 of the Motor Vehicle Act, 1988. In the absence of any evidence supporting the averments even made in the FIR, it cannot be said that findings recorded by the tribunal are without appreciating the evidence on record. Mere registration of an FIR, author of which has not been examined by the claimants will not give a right to the appellants to claim that averments made in the FIR are to be treated as gospel truth so as to award compensation by treating the driver of alleged offending vehicle as negligent.

Learned counsel for the appellants has also not been able to apprise this Court about the outcome of the FIR, which was registered against the driver of the auto-rickshaw. Under these circumstances, when no evidence has come to prove the rash and negligent driving by the driver of the offending vehicle in any manner, award dated 02.02.2016 passed by the tribunal cannot be treated as perverse to any evidence or fact on record.

Keeping in view the above, no ground for interference by this Court is made out and the present appeal is accordingly dismissed.

April 17, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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