

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-3562-2018 (O&M)
Date of decision: 16.02.2023

Murti & Others

...Appellant(s)

Vs.

Jaskaran Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Ekta Thakur, Advocate for the appellants.

NIDHI GUPTA, J.

CM-12437-CII-2018

This is an application under Section 151 CPC for exemption from filing true typed copy of Award dated 15.01.2018 passed by Motor Accident Claims Tribunal, Chandigarh.

After going through the contents of the application, the same is allowed subject to just all exceptions.

MAIN CASE

Present appeal has been filed by the claimants against dismissal of their claim petition by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as "the learned Tribunal") vide Award dated 15.01.2018 passed in MACT Case No.230 of 2015 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). The claimants are widow and children of deceased-Murari.

Learned counsel for the appellants assails the impugned Award and submits that the learned Tribunal has dismissed the claim petition only on the ground that, respondent No.1/driver of the bus bearing registration No.PB-65-AD-2250 (hereinafter referred to as “the offending vehicle”) was acquitted in the criminal case registered against him in respect of the accident in question. It is submitted that as per judgment of this Court in ***FAO No.4426 of 2019 titled as “Oriental Insurance Company Ltd. Vs. Malkiat Kaur @ Malkiyat Kaur & Others”*** acquittal of driver in criminal proceedings constitutes no ground to dismiss claim petition.

No other argument is raised on behalf of the appellants.

I have heard learned counsel for the appellants.

A perusal of the record of the case shows that FIR was registered on the basis of statement of Dev Raj/claimant-appellant No.2/PW3. In the trial before the Criminal Court, PW3 had turned hostile and had not identified respondent No.1/driver of the offending vehicle, as a result of which respondent No.1 had been acquitted by the learned Sub-Divisional Magistrate, Kalka vide judgment dated 11.10.2017. However, before the learned Tribunal in the claim petition, PW3/Dev Raj/claimant-appellant No.2 had categorically asserted that the accident in question had been caused due to the rash and negligent driving of respondent No.1/driver of the offending vehicle. It is therefore apparent that the appellants, perhaps in connivance with respondents, had not supported the prosecution case in the criminal trial instituted against the respondent No.1; while in the claim petition before the learned Tribunal, they had not

hesitated to impute rash and negligent driving on the part of respondent No.1.

Clearly, two contradictory statements before two different Courts have been made by claimant/appellant No.2. Needless to say, this casts a shadow of doubt on the case set up by the claimants.

Learned counsel for the appellants is unable to dispute or explain this discrepancy in their case.

Accordingly, I find no merit in the present appeal and the same is hereby dismissed.

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

16.02.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No