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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-488-2024 (O&M)

Date of Decision : 25.07.2024

Satinderjit Singh & Anr

... Appellant(s)

Versus

Babli & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. B.S. Jatana, Advocate for the appellants.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the owner and driver of the offending vehicle challenging the Award dated 19.12.2023 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'Tribunal').
2. It was averred in the claim petition that on 28.10.2021 at about 9.30/9.45 am the deceased started his journey from village Wazirpur to Patiala on his motorcycle bearing registration No.PB-11-CW/0176, Splendor Plus and at that time Raju son of Mohan Chand was riding on his scooty behind the deceased. At about 10.30 am when the deceased arrived at the turn of village Korjiwala, Sangrur Road, Patiala, the offending tractor came from Patiala side at a high speed and in a rash and negligent manner being driven by appellant No.1 herein and he turned the offending tractor in a rash and negligent manner without giving a signal or indicator and hit the motorcycle of the deceased who fell down on the ground and suffered

grievous injuries on his head and other parts of the body. After a considerable distance, the tractor driver stopped the vehicle and came to the place of accident. A number of people gathered at the spot and thereafter appellant No.1 fled from the spot. An ambulance was arranged and the deceased was shifted to Rajindra Hospital, Patiala for treatment. However, he was declared brought dead. An FIR No.227 dated 28.10.2021 under Sections 279/304-A of the Indian Penal Code, 1860 was registered at Police Station Passiana. In the written statement filed by the appellants, it was the stand taken that no accident had taken place and that a false FIR had been registered. It was further averred that appellant No.2 herein was the owner of the vehicle bearing Registration No.PB-11-CQ/2711 but the same was not the offending vehicle. It was further averred that the vehicle was insured with Go Digit General Insurance Limited and that appellant No.1 was having a valid driving licence. Respondent No.3 filed its written statement submitting that it was wrongly impleaded as respondent No.3 was only a finance company and had given a loan for purchase of the vehicle. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether Dharamveer S/o Meer Chand died in a motor vehicular accident occurred on 28.10.2021 at about 10.30 am within the area of Patiala Sangrur Road, P.S. Passiana due to rash and negligent driving of respondent No.1 while driving offending Tractor Trolley bearing Registration No.PB-11-CQ/2711 which hit the motorcycle No.PB-11-CW/0176 driven by deceased ?

OPP

2. Whether the claimant is entitled for compensation, if so to what extent and from whom ? OPP

3. Whether the claim petition is not maintainable ?
OPR 1&2

4. Relief.

3. On issue No.1 the Tribunal held that the offending vehicle was being driven in a rash and negligent manner resulting in the accident, thereby death of Dharamveer. The Tribunal awarded an amount of Rs.26,85,000/- as compensation alongwith interest @ 7% per annum. Aggrieved by the same, the present appeal has been preferred by the appellants.

4. Learned counsel for the appellants has contended that since the claim petition was filed under Section 166 of the Motor Vehicle Act, 1988, it was incumbent on the claimants to prove rash and negligent driving on the part of the driver i.e. appellant No.1 herein. It is further the contention that the eye-witness who had stepped into the witness box and who is stated to have been following the deceased on his Scooty did not even know the direction and hence he could not be believed to be the eye-witness. It is further the contention of the learned counsel that the body was taken for post-mortem by ASI Harminster Singh and hence it is clear that the alleged eye-witness was not present at the time of the accident. The learned counsel has further argued that the deceased was not wearing a helmet and at best it could be a case of contributory negligence.

5. I have heard the learned counsel for the appellants.

6. In the present case the Tribunal has returned a categorical finding that the offending vehicle was being driven in rash and negligent manner. CW2- Raju, who is the author of the FIR and the eye-witness of the accident, was subjected to a lengthy cross-examination. However, not a single suggestion was even put to him that the vehicle was not being driven rashly and negligently. Still further, no suggestion was given that the deceased was not wearing a helmet. The argument of the learned counsel that the body was taken for post-mortem by ASI Harminder Singh and hence it can be safely presumed that the eye-witness was not present at the time of the accident is noticed only to be rejected. Once a person is taken to hospital and he is declared dead and the Police is informed, it is usually the Police who takes the body for post-mortem. Hence, nothing turns on the said argument and the same is accordingly rejected. The argument of the learned counsel that the deceased was not wearing a helmet was neither raised before the Tribunal nor a suggestion was put to the eye-witness.
7. In view of the above, I do not find any merit in the present appeal which is accordingly dismissed. Pending applications, if any, also stand disposed off.

25.07.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO