



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

FAO-2669-1996 (O&M)
Date of decision : 20.11.2024

Urmila Rani and others Appellants

versus

Jeet Ram @ Jitu and others Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Arvind Mittal, Advocate
for the appellants.

Mr. Sajan, Advocate
for respondent No.1.

Mr. Vipul Sharma, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

1. Claimants are in appeal against the award dated 03.05.1996 passed by MACT, Ropar in MACT case No.42 of 30.03.1994, whereby the claim petition filed under Section 166 of the Motor Vehicles Act by the appellants stands dismissed.

2. Claim petition was filed seeking compensation on account of death of one Suresh Kapil, who died in a motor vehicular accident claimed to have resulted due to rash and negligent driving of bus belonging to Himachal Road Transport Corporation, Depot Rohru.

3. As per the case of the claimants, on 24.10.1993, Suresh Kapil riding his scooter bearing registration No.PB-12-1500 was travelling from Patiala to Ropar. When he reached near bridge of Bhakra Canal near village Gandhon Khurd, bus bearing registration



No.HP-10-0319 driven by respondent No.1 struck against the scooter, resulting in death of Suresh Kapil on the spot. Claim petition was resisted by respondents. Respondent No.1-driver claimed false implication. Respondents claimed false implication of respondent No.1. On the pleadings of the parties, following issues were framed:-

“(i) Whether Suresh Kapil died in a motor vehicle accident on 24.10.1993 on account of rash and negligent driving of Jit Ram respondent, while driving bus No.HP-10/0319? OPP

(ii) Whether the petition is bad for non joinder of necessary party? OPR.

(iii) Whether the petitioners are entitled to claim compensation, if so how much and from which respondents? OPP.”

4. While returning finding on issue No.1, Tribunal returned the finding against the claimants holding that the claimants have failed to prove that Suresh Kapil died in a motor vehicular accident on account of rash and negligent driving of bus driven by Jeet Ram-respondent No.1. Resultantly, the claim petition was dismissed.

5. Counsel for the appellant while assailing the impugned award passed by the Tribunal asserts that the Tribunal fell in error in disbelieving of testimony of Kamaljit Singh AW-3, who was witness to the occurrence. He submits that the FIR was registered on the same day. The statement of Kamaljit Singh, who appeared as AW-3 was recorded under Section 161 Cr.P.C. by the police during the course of investigation on the day of accident. The fact that Kamaljit Singh produced travel tickets shows that he was travelling in the offending bus and thus, there was no reason to disbelieve Kamaljit Singh AW-3.



Counsel further submits that driver i.e. respondent No.1 was arrested and tried for offence punishable under Section 304-A of IPC.

6. *Per contra*, counsel for respondent No.1 submits that the same witness also appeared before the criminal court and was not believed and thus Tribunal rightly discarded the testimony of AW-3. Apart from the said testimony of Kamaljit Singh, there is no other evidence on record and thus Tribunal rightly decided issue No.1 against the claimants.

7. I have heard counsel for the parties and have carefully gone through the records of the case.

8. So far as disbelieving of AW-3 Kamaljit Singh by criminal court is concerned, the same has no bearing on the present case. There is difference between standard of proof to be discharged with respect to the criminal trials and that regarding petitions arising out of Motor Vehicles Act. The standard of proof in criminal trial is beyond reasonable doubt whereas in civil courts it is only the preponderance of probabilities that need to be considered.

9. Counsel for respondent No.1 is not in a position to dispute the fact that AW-3 witness of the occurrence narrated the whole incident in his statement recorded by the police authority under Section 161 of Cr.P.C. on the day of occurrence. He was able to prove his presence on the spot by producing tickets showing that he was indeed travelling in the bus. It is also not disputed that respondent No.1 was tried for the offence related to death of Suresh Kapil in accident.



10. In view of above, findings recorded by the Tribunal on issue No.1 cannot be sustained and are hereby set aside. Issue No.1 is ordered to be decided in favour of the claimants.
11. The matter is remanded back to MACT, Ropar for deciding afresh on issue No.2 to 4, in accordance with law. Keeping in view that the family in destitute is awaiting compensation on account of death of deceased Suresh Kapil which includes 03 children who were minor at the time of accident, this Court is sanguine that the Tribunal shall make every endeavour to decide the claim petition within a period of one year from the date of receipt of certified copy of the order.
12. Disposed off, accordingly.
13. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

20.11.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No