

2024.PHHC:069485



126.

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.1860 of 2024 (O&M)

Date of decision: 07.05.2024

National Insurance Company Limited

.... Appellant

Versus

Kanta and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Gopal Mittal, Advocate, for the appellant.

GURBIR SINGH, J.

1. Present appeal has been filed against the award dated 03.02.2024 passed by Motor Accident Claims Tribunal, Rohtak, whereby the appellant herein, which is the insurer of Scooty bearing registration No.HR-12AN/7360, along with the driver and owner of said vehicle, arrayed as respondents No.3 and 4, have been jointly and severally held liable to pay compensation to the claimant-respondent No.1.

2. Briefly stated, claimant No.1-Kanta being mother and claimant No.2-Narender being brother of the deceased, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 for grant of compensation, on account of death of Ajay in a motor vehicular accident, on the ground that on 30.10.2021, deceased Ajay along with his brother Narender was going on feet and in the meanwhile, a scooty bearing registration No.HR-

12AN/7360 being driven by its driver in a rash and negligent manner, came from behind and hit Ajay, as a result of which, he fell down on the road and sustained multiple grievous injuries on different parts of his body. He was got admitted in PGIMS, Rohtak by his brother Narender where he died during treatment. In this respect, an FIR No.278, dated 01.11.2021 under Sections 279, 337 and 304-A of IPC was registered at Police Station Civil Lines, Rohtak, by Narender, brother of the deceased.

2.1 After appreciating the evidence on record, the learned Tribunal awarded compensation of Rs.14,32,440/- in favour of claimant No.1-Kanta, mother of the deceased, and the claim petition qua claimant No.2-Narender was dismissed as he was not considered as dependent upon the deceased.

3. Learned counsel for the appellant-Insurance Company has argued that neither name of the offending vehicle nor name of the driver was mentioned in the FIR. The claimants and driver & owner of the offending scooty belonged to the same district. They colluded with each other and also involved the concerned police officials in order to receive compensation illegally. It is not believable that owner of the offending scooty Rajinder Singh-respondent No.4 himself visited the house of the claimants on 08.02.2022 i.e. after 3 months and 9 days of the accident, and disclosed that Sohan Singh-respondent No.3 was driving his scooty and he caused the accident. Neither driver nor owner of the offending scooty stepped into the witness box.

4. I have heard the submissions of learned counsel for the appellant and have gone through the file.

5. The claimants examined Narender as PW1. He is the author of the FIR and brother of the deceased. He proved copy of the FIR where it is written that the scooty came from behind which was being driven by its driver in a rash and negligent manner and hit Ajay, who fell down on the road and suffered grievous injuries. The claimants have also proved copy of challan under Section 173 Cr.P.C. submitted by the police against respondent No.3-driver of scooty for causing the death of Ajay by driving the scooty in a rash and negligent manner.

5.1 In MACT cases, claimants are only required to prove their case on the touchstone of preponderance of probabilities. The degree of proof is not required as in criminal case. In case ***Dilpari and others Versus Daljeet Singh and others, 2018(4) R.C.R. (Civil) 258***, it has been held that facts of registration of FIR and trial of the accused in a criminal court are sufficient to arrive at a conclusion in the cases under the Motor Vehicles Act that the accident has been caused by the offending vehicle. Further reliance was placed on case ***Raju and others Versus Sukhvinder Singh and others, 2006(4) R.C.R. (Civil) 82*** to contend that when a driver of the vehicle does not appear to deny negligence, negligence can be inferred. In the case in hand, neither driver nor owner of said scooty did not step into the witness box to rebut the evidence led by the claimants. There is nothing on record that said driver filed any complaint with any authority that he was falsely implicated. So, the learned Tribunal has rightly held that the accident had taken place due to the negligence of the driver of offending vehicle.

6. Keeping in view the fact that scooty was specifically mentioned in the FIR and later on name of its driver was disclosed to police, investigation was conducted by police and challan was filed and there is no rebuttal to the evidence led by the claimants that respondent No.3 had not caused the accident. It is the specific case of the appellant that the involvement of the driver and owner of the scooty was due to the collusion with the claimants. Said fact was required to be proved, but there is no such evidence. There is no evidence why claimants would falsely implicate respondent No.3, who is also facing trial and why respondent No.3 would take a risk to face conviction and sentence for the offence which he did not commit. Thus, I am of the view that there is no evidence that the claim petition was filed by the claimants in collusion with the driver and owner of the vehicle.

7. A well reasoned judgment has been passed by the learned Tribunal. There is no infirmity in the judgment. Same is in accordance with law.

8. So, this appeal is without any merit and it is dismissed accordingly.

9. Pending application, if any, shall also disposed of.

(GURBIR SINGH)
JUDGE

May 07, 2024

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