

FAO-4160-2005 -1-
and other connected cases

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

201

FAO-4160-2005
Date of decision: 15.10.2024

RANJIT KAUR & ORS

....APPELLANTS

Vs.

MAHAN SINGH & ORS

...RESPONDENTS

FAO-4161-2005

KULWINDER SINGH

....APPELLANT

V/S

MAHAN SINGH & ORS

...RESPONDENTS

FAO-4162-2005

SWARAN SINGH

....APPELLANT

V/S

MAHAN SINGH & ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Rishav Jain, Advocate and
 Mr. Arun Jindal, Advocate
 for the appellants (in all cases).

 Ms. Simran, Advocate for
 Mr. Pardeep Goyal, Advocate
 for the respondent-Insurance Company.

JAGMOHAN BANSAL, J (ORAL)

1. Mr. Rishav Jain, Advocate has put in appearance on behalf of appellants and filed his Vakalatnama, which is taken on record. Registry is directed to tag the same at an appropriate place.
2. By this common order FAO-4160-2005, FAO-4161-2005 and FAO-4162-2005 are being disposed of since issues involved in all the appeals and prayer

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sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from FAO-4160-2005.

3. The appellants through instant petition are seeking setting aside of Award dated 02.06.2005 whereby Motor Accidents Claims Tribunal, Fatehgarh Sahib (for short 'Tribunal') has dismissed their claim.

4. The husband of appellant No. 1 along with two pillion riders was riding on scooter No. PB-23B-2887. The said scooter met with an accident on 13.08.2001. As per appellants, a tractor bearing registration No. PB-52-7525 hit the scooter. Resultantly, driver of the scooter died and pillion riders got injured. The appellants and injured pillion riders preferred claim before Tribunal seeking compensation.

5. The Tribunal vide impugned order dated 02.06.2005 has rejected claim of the appellants on the ground that they have disclosed incorrect name of the driver and registration number of the vehicle. The Tribunal has underpinned its findings on the premise that claimants were known to owner of the tractor for more than a decade whereas FIR was lodged after 14 days from the date of accident and in the FIR, name of driver as well as registration number of tractor did not figure.

6. The findings recorded by Tribunal for the ready reference are reproduced as below :-

“13. In the present case, respondents have denied the accident. PW1 Surinder Pal Singh lodger of the FIR deposed that as he was under shock, he could not read registration number of the tractor. He had recognized the tractor driver because he usually passed through their village alongwith his tractor as he was putting earth with his tractor in Sirhind. His name was Sucha Singh. After few days, he had disclosed the name of Driver and Registration number of the tractor to the police. Deceased was the real brother of this witness. In his cross-examination he deposed that the tractor driver as well as owner of the tractor were known to him, for the last 10/15 years. The accident



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in this case had taken place on 13.8.2001 at 8 p.m. and the DDR was registered on 31.8.2001 at 9.50 a.m. on the basis of same, formal FIR Ex.P1 was recorded at 10-30 a.m. On 31.8.2001. PW3 Kulwinder Singh is injured who also deposed that he knew the Driver and owner of the tractor for the last many years. He knew Sucha Singh for the last 20 years and the same was his reply with regard to Mahan Singh. Thus, both eye witnesses knew the owner as well as Driver of the Tactor for the last many years. Had the accident been actually caused by Sucha Singh while driving the offending tractor, then the name of Sucha Singh would hae figured in FIR Ex. P1. It is not a case where the FIR was immediately recorded after the accident. The FIR in this case was recorded after 13 hours of the accident and in normal circumstances, the name of Driver as well as number of tractor would have figured in the FIR. In view of this the statements of witnesses examined by the respondents gain significance. RW1/A Baljinder Singh deposed that the accident had taken place near his shorshop. On hearing loud noise, he had gone out of his workshop and had seen three persons lying on the road. The trolley which he had seen at the time of occurrence did not belong to Respondents. Police had recorded his statement during enquiry.

14. RW2 Mahan Singh has denied the factum of accident and deposed that in an enquiry by the police they were found innocent. RW3 Sucha Singh has also denied the accident. Although, the enquiry proceedings mark A and mark B have not been exhibited, yet notice can be taken of the same as in the present case admittedly no challan was presented against Sucha Singh with regard to the accident. A perusal of mark A and Mark B reveals that on the basis of Statements of Sawarn Singh and Kulwinder Singh recorded on 2.9.2001, Sucha Singh was arrested and was released on bail. Thereafter, the enquiry was conducted by the Police and Sucha Singh was found innocent. Statements of Kulwinder Singh and Sawarn Singh Ex.P3 and Ex.P4 fail to advance the case of the claimants as the said witnesses have given the name of the Driver of the tractor on 2.9.2001. Although, they already knew the Driver for the last many years. The number of the tractor is not disclosed in Ex.P3 and Ex.P4. In view of above

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mentioned facts, the claimants have failed to prove this issue. Accordingly, this issue is decided against the claimants and in favour of the respondents.”

7. On being confronted, Mr. Rishav Jain, Advocate expressed his inability to controvert findings of the Tribunal.
8. The Tribunal has recorded categoric findings that FIR was lodged after 14 days from the date of alleged accident and in the FIR, registration number of tractor and name of driver were not disclosed, though, claimants were having acquaintance with owner of the tractor.
9. This Court does not find any infirmity in the impugned Award warranting interference.
10. Dismissed.

15.10.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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