

**FAO No.4805 of 2006****#1#****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****FAO No.4805 of 2006**

Manjit Kaur

*.....Appellant**Versus*

Lakhwinder Singh and Ors

*.....Respondents****Date of Decision: 22.05.2024*****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Kamaldip S Sidhu, Advocate with
Ms. Kirandeep Kaur, Advocate for the appellant.

Mr. Gopal Mittal, Advocate for the respondent-Insurance
Company.

SUDEEPTI SHARMA, J

1. By means of instant appeal, appellant-claimant Manjit Kaur/
widow of Ranjit Singh (since deceased) seeks to assail award dated
12.08.2006 passed by the learned Motor Accident Claims Tribunal,
Fatehgarh Sahib (for short “the Tribunal”) whereby claim petition filed by
her has been dismissed.

2. The facts in brief as emerged from the claim petition are that on
30.07.2003, Ranjit Singh (since deceased), his wife Manjit Kaur(appellant)
and son Harshpreet Singh had gone to Village Chhat to get medicine on
Scooter No. PB-11-B-8255. Scooter was being driven by Ranjit Singh.
When they reached near Banur Barrier, Dalbir Singh brother of Manjit Kaur
met them on the way. Dalbir Singh, who was travelling on his separate
scooter, started following the scooter driven by Ranjit Singh. At about 12-15
PM, they turned towards Village Chhat from bus stand Chhat. In the
meantime, a Scorpio bearing registration No.PB-07-6849 driven by



respondent No.1 in a rash and negligent manner came from Patiala side and struck against the scooter driven by Ranjit Singh, as a result of which Ranjit Singh and Manjit Kaur (appellant) suffered multiple injuries. They were removed to PGI, Chandigarh. Ranjit Singh succumbed to his injuries on 31.07.03 whereas appellant-Manjit Kaur was given treatment in PGI Chandigarh. Accident had taken place due to rash and negligent driving of respondent No.1. Claimant had suffered a great loss due to the injuries suffered by her.

3. Upon notice, respondent Nos.1 & 2 filed written statement denying the averments made in the claim petition.

4. Respondent No.3 in its written statement took up preliminary objections that the driver of the Scorpio was not holding a valid driving licence at the time of the accident and the claim petition was bad for non-joinder of necessary parties. On merits, the contentions raised in the claim petition were denied. Though it was averred that three persons were travelling on the Scooter.

5. Replication was filed by the claimant-appellant wherein averments made in the written statement were denied. On the pleadings of parties, following issues were framed:

“1. Whether Manjit Kaur received injuries in an accident which had taken place on 30.07.2003 at about 12-15 pm in the revenue limits of Village Chhat due to rash and negligent driving of respondent No.1-Lakhwinder Singh while driving Scorpio Turbo No.PB-07-6849?OPA

*2. Whether respondent No.1 was not holding a valid driving licence at the time of the accident, if so its effect?
OPR*

3. Whether claimant is entitled to receive compensation, if so to what extent and from whom?OPP



4. Relief.”

6. In order to prove their case, claimant examined PW-1 Dalbir Singh besides herself appearing in the witness box as PW2 and tendered in evidence copy of FIR Ex.P1, Medicolegal Report Ex.P2, Receipt Ex.P3 and copy of RC Ex.P4.

7. On the other hand, respondents tendered in evidence copy of Insurance Policy Ex.R1, copy of driving licence Ex.R2 and cover note Ex.R3.

8. Having heard learned counsel for the parties and based on the material evidence brought on record, learned Tribunal dismissed the claim petition, hence the present appeal.

9. Learned counsel for the appellant submits that the claim petition of the appellant was dismissed only on the ground that the deceased Ranjit Singh-husband of appellant No.1-Manjit Kaur suddenly turned his Scooter towards his right side without giving any signal in violation of the traffic rules, because of which accident took place. He further contends that the learned Tribunal while dismissing the claim petition has not taken into consideration the contents of the FIR (Ex.P.1) wherein it has been specifically mentioned by claimant-appellant that the Scooter was stopped by the deceased husband, thus it cannot be stated that the deceased took turn without seeing the road. It is contended that the learned Tribunal while rejecting the claim of the appellants has not appreciated the statements of PW1-Dalbir Singh, brother of the appellant-Manjit Kaur and PW2-Manjit Kaur (injured). He further contends that the learned Tribunal has rejected the claim on the ground that no evidence was brought on record to prove the negligence on the part of the driver of the offending vehicle whereas the claim of the appellant was never denied either by way of oral or



documentary evidence adduced by the respondents. As per post-mortem report, the accident was the cause of death and the FIR was registered against respondent No.1 i.e driver of the offending vehicle. The offending vehicle was identified and no evidence either in rebuttal or defence was ever led in this regard.

10. Per contra, learned counsel representing the respondent-Insurance Company submits that the husband of the appellant had not followed the traffic rules as prescribed under Section 121 of the Motor Vehicles Act, 1988 (for short “the Act”) since no signal was given by him while turning the Scooter towards right side. He further contends that provisions of Section 128 of the Act provides that no driver of two wheeler shall carry more than one person in addition to himself whereas in the present case, the husband of the appellant-claimant, appellant-claimant herself and the minor son were there on the Scooter, therefore, he had violated the provisions of the Act. He has referred to cross examination of PW1-Dalbir Singh/brother-in-law of Ranjit Singh (deceased husband of the claimant-appellant) wherein he deposed that his brother-in-law was to take turn towards right hand side in order to go to his village and that he had not yet taken the turn. Turn was near the place of accident and the car had struck against the right side of the Scooter, therefore, total negligence was on the part of the deceased husband of the claimant.

11. I have heard learned counsel for the parties and perused the record with their able assistance.

12. A perusal of the award shows that as per the FIR, the Tribunal has ignored the FIR which was lodged by the eye-witness i.e appellant-claimant Manjit Kaur, who was the only eye witness being the pillion rider and suffered injuries as well.



13. In his deposition, Dalbir Singh-PW1 stated that on 30-07-2003 at about 12.15 P.M, he was following the Scooter Bajaj Chetak driven by Ranjit Singh (since deceased) and Manjit Kaur alongwith his son Harshpreet Singh in her lap was sitting as Pillion Rider of the Scooter of Ranjit Singh. When they turned towards village Chhat from Bus Stand Chhat, then a Scorpio Turbo No.PB-07L-6849 driven by Lakhwinder Singh-respondent no.1 at a very high speed in a rash and negligent manner without observing Traffic Rules and in a Zig Zag Manner came from Patiala side and struck against the Scooter of Ranjit Singh and with the impact of accident, Ranjit Singh (since deceased) suffered multiple injuries on his head and other parts of the body. Ranjit Singh and Manjit Kaur were admitted in P.G.I. Chandigarh, where Ranjit Singh died on 31-07-2003 due to the injuries received by him in aforesaid accident caused by respondent no.1 while driving the aforesaid vehicle Scorpio in a rash and negligent manner and at a very high speed without observing Traffic Rules. In his cross examination, he deposed that his brother-in-law was to take turn towards right hand side in order to go to his village and he had not yet taken the turn. He further deposed that the turn was near the place of accident at a distance of 20-25 yards and front portion of the car struck against the Scooter of his brother-in-law. Car struck against the right hand side of the Scooter. He stated that the road was wide enough from where three truck could pass simultaneously. He further deposed that there was no vehicle on the road at the time of accident and the FIR was lodged immediately after the accident.

14. Ex.PW2/A is statement made by CW2-Manjit Kaur (appellant), who stated that on 30-07-2003, she alongwith her husband Ranjit Singh and her son had gone to village Chhat to get medicine for her son Harshpreet Singh on a Bajaj Chetak Scooter bearing No.PB-11-8255 driven by her



husband Ranjit Singh and she was the pillion rider. She further stated that when they reached near village Banar Barrier, Dalbir Singh s/o Jit Singh who is her brother met them on the way. He was on his own Scooter and he started following them. When at about 12.15 PM, they turned towards village Chhat from Bus Stand Chhatt, then a Scorpio Turbo bearing No.PB-07L-6849 being driven by Lakhwinder Singh-respondent no.1, at a very high speed and in a rash and negligent manner without observing Traffic rules and in a very Zig Zag manner came from Patiala side and struck against the Scooter and caused the accident, as a result of accident her husband Ranjit Singh received multiple injuries on his head and other parts of the body and she also received multiple injuries on her head and other parts of the body and then they were admitted to P.G.I. Chandigarh where Ranjit Singh had died on 31-07-2003 due to the injuries sustained by him in the aforesaid accident. In her cross examination, there are no discrepancies and contradictions. She stated that the village road was wide enough where three truck could pass at one time. When they were to take turn towards their village, front portion of the Scorpio struck against the Scooter.

15. A perusal of the medicolegal report of Manjit Kaur shows that multiple injuries were suffered by her. One of the injuries shows that there was fracture of bone also. It is apparent from a bare reading of statements of PW1 and PW2 that the deceased Ranjit Singh was about to take turn towards right side and the car hit from the right side of the Scooter, which proves the negligence on the part of the driver of the Scorpio. So far as the contention of learned counsel for the respondent regarding violation of the traffic rules is concerned, this Court rejects the same since a perusal of the evidence clearly shows that the Scooter was not being driven at a very high speed and it was about to turn right. Therefore, the rejection of the claim of the



appellant on the ground of not obeying the traffic rules is not justified. The other contention of learned counsel for the respondent that as per Section 128 of the Act, the driver of two wheeler cannot carry more than one person in addition to himself is not acceptable as it is evident from the record that the third person, at the time of accident, was a minor son of two years old. That apart, the driver of the offending vehicle never appeared in his examination in order to prove his innocence, therefore the factum of accident and rash and negligent driving on the part of the driver stands proved. Further more, the claim of the appellants, which is supported by evidence, goes unrebutted.

16. Since this matter pertains to the year 2006 and it falls in the category of burnt cases. Since issue No.1 was decided against the appellants, therefore issue No.3 was not decided. It is clear from the record that the claimant remained hospitalized from 30.07.2003 to 01.08.2003 i.e for a period of three days. Besides, in the present case, the claimant has led sufficient evidence to show that there was much negligence and default on the part of the driver of the Scorpio.

17. On consideration of the totality of the facts and circumstances of this case and considering the nature of injuries sustained by the claimant-appellant, present appeal is allowed with the observation that the claimant would be entitled to receive a sum of Rs.50,000/- as compensation.

18. So far as the interest part is concerned, as held by Hon'ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma 2019 ACJ 3176** and **R.Valli and Others VS. Tamil Nadu State Transport Corporation (2022) 5 Supreme Court Cases 107**, the appellant-claimant is granted the interest @9% per annum on the amount of compensation from the date of filing of claim petition till the date of its



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realization.

19. Respondent No.3 is directed to deposit a sum of Rs.50,000/- before the Tribunal on account of compensation payable to the applicant/claimant within a period of three months from today along with interest @ 9% per annum, which shall be disbursed to the claimant. Claimant is directed to furnish details of her bank account to the Tribunal.

All the pending misc application(s), if any, shall stand disposed of.

(Sudeepti Sharma)
Judge

May 22, 2024
manoj

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

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