

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****133****FAO-4584-2024 (O&M)****Date of Decision : 26.09.2024**

Ajit Singh

....Appellant

VERSUS

Madhu Kumari and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.S. Bhullar, Advocate for the appellant.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the appellant against the award dated 07.08.2024 passed by the Motor Accident Claims Tribunal, Faridkot (hereinafter referred to as the 'Tribunal') whereby the claim petition filed by respondent Nos.1 and 2 herein has been allowed and a lump sum compensation of Rs.10,00,000/- has been awarded in favour of the claimant-respondent Nos.1 and 2 alongwith interest @ 6% per annum from the date of filing of the claim petition till realization on account of death of their daughter, namely, Alisha (hereinafter referred to as the 'deceased'), who was a 1½ years old minor child.

2. The brief facts relevant to the present *lis* are that the deceased, who was 1½ years old, died in a motor vehicle accident that took place on 02.12.2022 at about 05.30 pm near FCI Godown, Lajpat Nagar, Faridkot Road, Kotkapura. The facts as pleaded were that claimant-respondent No.2 is a resident of Amritsar and is a labourer. He married with claimant-respondent No.1, who was residing near FCI Godown, Lajpat Nagar,

Faridkot Road, Kotkapura. On 28.11.2022, claimant-respondent Nos.1 and 2 visited the parental house of claimant-respondent No.1. On 02.12.2022, at about 05.30 pm, when claimant-respondent Nos.1 and 2 were present at the parental house of claimant-respondent No.1 and minor daughter Alisha was playing outside the house with her maternal grandmother Rukmani Devi, the vehicle bearing registration No.PB-10-DS-4008 make Toofan Frozen (hereinafter referred to as the 'offending vehicle'), which was being driven by respondent No.3 herein in a rash and negligent manner and while driving the same on the wrong side of the road it crushed the minor child. Respondent No.3 tried to flee from the spot alongwith the offending vehicle. As the road was closed, he left the offending vehicle at the spot and fled. The child was taken to the hospital where she was declared brought dead. FIR No.239 dated 03.12.2022 was registered at Police Station City Kotkapura. The offending vehicle was owned by the appellant herein. In the written statement filed by the driver of the offending vehicle i.e. respondent No.3 herein, the stand taken was that the accident never took place and a totally false FIR has been lodged. It was further the stand taken that it is the duty of the parents to look after their minor children and if any such incident happens it is the fault of parents. The appellant herein filed a separate written statement denying the involvement of the offending vehicle. It was further averred that there was no negligence on the part of the appellant or respondent No.3. It was further the stand taken that respondent Nos.1 and 2, who are parents of the deceased, were duty bound to take care of the minor

child and that they themselves were liable for the death of the minor child in the alleged accident.

3. On the basis of the pleadings of the parties the following issues were framed :

1. Whether minor Alisha had died in a motor vehicular accident, which took place on 02.12.2022, at about 05:30 P.M. near FCI Godown, Lajpat Nagar, Faridkot road, Kotkapura, on account of rash and negligent driving of vehicle bearing registration No.PB-10DS- 4008, by respondent No.1 ? OPP
2. If issue No.1 is proved, whether the claimants are entitled to seek compensation, if so, to what extent and from which of the respondents ? OPP
3. Whether the claim petition is not maintainable in the present form ? OPR
4. Whether the claimants have not come to the Court with clean hands and have concealed material facts front the court ? OPR
5. Whether claimants have no locus standi to file the present claim petition against the respondents ? OPR
6. Relief.

4. The Tribunal on issue Nos.1 and 2 held that the accident took place as averred in the claim petition and awarded a compensation of Rs.10,00,000/- alongwith interest @ 6% per annum from the date of filing of

the claim petition till realization. Aggrieved by the same, the present appeal has been filed by the owner of the offending vehicle.

5. Learned counsel for the appellant would contend that it was an unbelievable story which was set up by the claimant-respondent Nos.1 and 2 that the child, who was an infant, was crushed by the offending vehicle. It is further the contention of the learned counsel for the appellant that the maternal grandmother of the deceased has various criminal cases pending against her and that in order to blackmail the people in the locality she had left the child purposely, which led to the accident. Learned counsel for the appellant would contend that no notional income has been considered by the Tribunal and a lump sum amount has been awarded as compensation.

6. Heard.

7. In the present case the minor child, who was 1½ years old, died in a motor vehicle accident which took place on 02.12.2022. The stand taken by the appellant and respondent No.3 i.e. driver of the offending vehicle was that the parents of the deceased themselves were at fault for having left the child and that they themselves were responsible for the accident. The stand of the appellant and respondent No.3 was not that the accident did not take place in the manner as averred. The argument of learned counsel for the appellant that there are criminal cases pending against the maternal grandmother of the deceased and that the child was left only to blackmail the people to extort money, deserves to be rejected. No person would leave and expose his child to such like accidents and no person would purposely leave the child on the road to die only in order to extract money. Keeping in view

the age of the deceased child, who was 1½ years old, a lump sum amount has been awarded by the Tribunal. No fault can be found with the award passed by the Tribunal.

8. In view of the above, I do not find any merit in the present appeal and the same being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

26.09.2024
jk

**(ALKA SARIN)
JUDGE**

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