



S. No.120

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

FAO No.141 of 2024 (O&M)

Date of Decision:16.07.2024

Cholamandalam MS General Insurance Co. Ltd.Appellant

Vs.

Sikander Singh and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Vishal Aggarwal, Advocate for the appellant.

DEEPAK GUPTA, J. (Oral)

CM No.323-CII of 2024

This is an application under Section 5 of the Limitation Act for condonation of delay of 01 day in filing the appeal.

For the reasons mentioned in the application, the same is allowed.

Delay of 01 day in filing the appeal is condoned.

FAO No.141 of 2024

Claim petition under Section 166 of the Motor Vehicles Act bearing CIS No.MACP-69/2022 filed by claimants – Sikander Singh and Sukhvir Kaur (respondents No.1 and 2 herein), who are the unfortunate parents of deceased- Navdeep, seeking compensation on account of death of their said deceased son Navdeep has been allowed by the learned Motor Accident Claims Tribunal, Bathinda vide award dated 02.09.2023 granting compensation of ₹15,42,280/- along with interest. The compensation was directed to be paid jointly and severally by the driver, owner and insurer of the offending vehicle.



Insurer of the offending vehicle is in this appeal before this Court. Learned counsel assails the findings of the Tribunal only on Issue No.1 which is pertaining to the rash and negligent driving of the driver of the offending vehicle.

As per the case pleaded by the claimants, on 23.10.2021 – Sikander Singh (one of the claimants) along with his son Navdeep Singh (deceased) had gone to their fields on Motor-cycle No.PB-03L-7357 for providing meal to father of Sikander. Thereafter, Sikander stayed in the fields, whereas Resham Singh, father of Sikander Singh along with Suresh Kumar son of Kulwant Ram started their journey back to the Village on motor-cycle No.PB-03AF-6883; whereas Navdeep Singh was on motor-cycle No.PB-03L-7357. All of them were on extreme left side of the road. It is alleged that at about 09:20 PM, as they reached near A Star Mini Palace after crossing Village Balahar Vinju towards their Village Goniana Kalan, the offending tractor trolley bearing registration No.PB-03BG-1788 loaded with packings of remains of the crop was lying in the turtle condition on the road, with no indicators or reflectors around the said tractor trolley to give any indication to the ongoing traffic on the road so as to make aware of them. As a result, the motor-cycle being driven by Navdeep Singh struck with remains of the crops lying on the road and then struck with the tractor trolley, causing grievous injuries to him. Said Navdeep in injured condition was shifted by his grandfather, Resham Singh i.e. father of Sikander; along with Suresh Kumar to Bathinda and then taken to Medicity Hospital, Bathinda from where he was referred to DMC & Hospital, Ludhiana on the same night. Unfortunately, he succumbed to the injuries on 24.10.2021. It was alleged that accident was thus caused due to negligence of respondent No.1, who had left the accidental vehicle on the road in



the same condition, without making any arrangement or signal on the road or any precautionary measures for the ongoing traffic to inform them regarding the accident.

The claim was resisted by the respondents. Necessary issues were framed. After taking evidence, learned Tribunal found the negligence of respondent No.1, who had left the accidental tractor trolley i.e. offending vehicle in the same condition after it had turned turtle, without giving an indication and thus decided Issue No.1 in favour of the claimants.

Assailing the afore-said finding, learned counsel contends that negligence of the offending vehicle has been held by the Tribunal only on the basis of statement of Resham Singh, the grandfather of the deceased; that FIR was lodged against unknown driver of the unknown vehicle; that accident occurred due to own negligence of the deceased as he did not see the accidental tractor/trolley lying on the road and struck against the same.

After considering the submissions made by learned counsel for the appellant – Insurance Company and after perusing the award passed by the Tribunal, this Court does not find any merit in this appeal.

It is noticed that in order to prove their case, claimants examined Shri Resham Singh, the grandfather of the deceased who is the eye witness of the accident. It is at his instance that FIR was lodged. He testified regarding the negligence of the driver of the offending vehicle as pleaded in the petition and was subjected to lengthy cross-examination but nothing could be elicited in his cross-examination to disbelieve him. Simply because he is the grandfather of the deceased, cannot be the reason to disbelieve him, when he, is the eye witness of



the accident, and was accompanying the deceased at the time of accident, though on different motor-cycle.

As far as the fact that registration number of the offending vehicle was not mentioned in the FIR, it has been observed by learned Tribunal that investigation report was called from the Police and it was found that the tractor/ trolley which was lying at the spot and with which the motor-cycle of the deceased had struck, was the same as is the offending vehicle.

Besides above, neither the driver nor the registered owner of the offending vehicle entered the witness box to rebut the testimony of CW1 Resham Singh, the eye witness of the occurrence. The testimony of CW1 Resham Singh is quite specific to the effect that no arrangement had been made by putting any indicator or reflectors to caution the ongoing traffic on the road about the fact that tractor trolley in accidental condition was lying on the road. Accident took place at 09:20 PM i.e. in the night time and so it could not be expected that without the indicator or any reflector, the deceased could have seen the accidental vehicle lying on the road.

In the afore-said facts and circumstances, this Court does not find any reason to interfere in the well-reasoned finding of learned Tribunal on Issue No.1 relating to the negligence of the driver of the offending vehicle.

No other point was urged.

Finding no merit in the present appeal, the same is hereby dismissed.

July 16, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No