

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

234

**FAO-2158-2016 (O&M)
Date of decision: 08.01.2025**

BUTA SINGH**..Appellant****Versus****JANG SINGH AND OTHERS****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

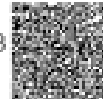
Present: Mr. Dhirinder Chopra, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.2.

ANIL KSHETARPAL, J(Oral)

1. This is the claimant's appeal filed against dismissal of his claim petition. The claimant is brother of late Sh. Chamkaur Singh, who is alleged to have lost his precious life on 07.07.2014 in an alleged motor vehicular accident. At that time, Sh. Chamkaur singh was working as a cleaner/conductor of truck bearing registration plate No.PB-29K-7727. The driver and the cleaner/conductor died on the spot as the truck fell on the dry bed of the river while passing through a bridge constructed for crossing the river. In order to prove his case, the claimant examined PW-3 Sh. Harparkash Singh, the eye-witness. The Tribunal refused to rely upon the statement of PW-3 on the ground that he is a procured witness.

2. It may be noted here that Tribunal after discarding the statement of PW-3 as in para 16 of the judgment, recorded that accident was caused due to rash and negligent driving of truck bearing registration plate No.PB-29K-7727, by its driver Sh. Paramjit Singh. After recording this finding, the



Court has decided the issue against the claimant, which is not comprehensible because of the previous finding. Furthermore, the finding of the trial Court is based upon mis-reading of Sh. Harparkash Singh's deposition, who has stated that his statement was recorded by the police, however, he cannot produce a certified copy of the statement, however, the trial Court has noticed that Sh. Harparkash Singh would have got his statement recorded with the police. Moreover, the Court has also erred in presuming that Sh. Harparkash Singh was not present at the spot as he did not accompany the dead bodies to the hospital. The Court has overlooked the fact that the accident took place in the area of District Hazari Bagh, West Bengal, whereas, Sh. Harparkash Singh was resident of village Bughipura, Tehsil and District Moga (Punjab). He was travelling with his own truck. Both the trucks bearing No.PB-29K-7727 and PB-29M-9390, belonging to Sh. Harparkash Singh were travelling together. After having noticed that the driver and cleaner/conductor died in an accident, he gave his statement to the police and thereafter, proceeded with his journey. Hence, the adverse inference drawn by the Tribunal was incorrect.

3. Similarly, the finding of the Tribunal to the effect that the claimant was required to file claim petition under Workmen's Compensation Act, 1923 (in short '1923 Act') is also incorrect because the learned counsel representing the respondent does not dispute that the claimants can avail any of the remedy and the 1923 Act does not debar the claimant to file petition under the Motor Vehicles Act, 1988. Since, the Tribunal has failed to assess the compensation, hence, the award is set aside while remitting it back to the Tribunal for fresh decision.

4. Disposed of accordingly.



5. The parties through their counsel are directed to appear before the Tribunal on 07.02.2025.
6. All the pending miscellaneous applications, if any, are also disposed of.

January 08th, 2025
Ay

(ANIL KSHETARPAL)
JUDGE

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