

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



SARLA DEVI AND ANOTHER ... APPELLANTS
V/S
RANBIR AND ANOTHER ... RESPONDENTS

Present: Mr. Harshit Joon, Advocate for
Mr. Mukesh Dewal, Advocate for the appellants.

* * *

CM-23884-CII-2018

In view of the statement made by learned counsel for the appellants, application is allowed to be withdrawn.

Heard.

2. Claimants-appellants are aggrieved by dismissal of their claim petition under section 166 of Motor Vehicles Act, 1988, vide impugned order dated 24.07.2017 passed by Motor Accident Claims Tribunal, Rohtak (hereinafter referred as 'Tribunal'). The appeal was filed within limitation on 24.10.2017. However, matter remained pending as either it was not taken up or learned counsel for the appellant was not ready to argue the matter and had sought adjournment. On 29.10.2018 appellant had filed an application seeking

permission to withdraw appeal and claim petition with liberty to file fresh claim petition u/s 163-A. However, same was withdrawn today as noted above.

3. Claimants-appellants had filed a claim petition asserting the death of deceased Sombir in accident dated 21.12.2012 on account of rash and negligent driving on the part of respondent No.1 while driving Tractor bearing registration no. HR-12-T-7918. The claimants have asserted that on 21.12.2012 at about 6.30 p.m. deceased Sombir was coming on his motor-cycle bearing HR-13F-9766. When he reached near village Ismaila at Demana Road Old Canal, in the meanwhile, a person suddenly crossed the road due to which deceased had to slow down his motor-cycle. In the meanwhile, tractor bearing registration no. HR-12-T-7918 being driven by its driver in rash and negligent manner came from behind and had struck against the motor-cycle of deceased from back side. The deceased had suffered multiple serious injuries. He was taken to PGIMS, Rohtak from where he was referred to Medanta Hospital, Gurgaon. However, he died on 20.01.2013 on account of injuries suffered by him in the accident. It was asserted that a DDR bearing GD No. 43 dated 21.01.2013 was recorded with Police Station Sampla.

4. On notice, respondent No. 1 - driver-cum-owner denied accident as well as his involvement and that of his tractor in totality. Insurance Company has also taken the same stand. Following issues were framed from the pleadings of the parties:-

“(1) Whether the accident in question occurred due to rash and negligent driving of vehicle i.e. tractor bearing registration No.HR-12T-7918? OPP.

- (2) If issue No.1 is proved, whether Sombir died due to the injuries sustained in the above said accident, if so to what amount of compensation and from whom the petitioners are entitled to? OPP
- (3) Whether there was willful violations of the terms and conditions of the insurance policy, if so to what effect? OPR2
- (4) Relief.”

5. In the present matter, claimants-appellants had examined only two witnesses in support of their case i.e. Smt. Sarla Devi, Claimant no.1 as PW1 and Azad Singh as PW2. However, none of them was present at the time of accident and were unable to disclose the manner of accident as well as regarding involvement of offending vehicle.

6. Learned counsel for the appellants has placed reliance upon unnatural death report No.8 dated 21.01.2013 and statement of Sombir which was recorded by Investigating Officer, Ex.P5 on 22.12.2012. In his statement, Ex.P5 Sombir (since deceased) had disclosed that on 21.12.2012 at about 6.30 P.M., he had reached near village Ismaila at Demana Road Old Canal while headlight of his motorcycle was out of order. Suddenly his motor-cycle had struck into trolley which was stationed near corner of the road. He in his statement has asserted that accident had occurred while making attempt to save the person. The deceased in his statement had stated accident to be *Itfakia* (by chance) while trying to save a person and due to the fact that headlight of his motorcycle was out of order. He also asserted that no one was at fault and accident was matter of chance and he does not want to take any legal action in this regard. In the statement made by deceased before the Police on 22.12.2012 and in unnatural death report No.8 dated 21.01.2013 none was stated to be at fault and accident was stated to be

result of the fact that motorcycle of the deceased had struck the trolley while saving other person as well as on account of fact that headlight of motorcycle was not working. No fault was attributed to tractor driven by respondent No. 1.

7. Learned counsel for the appellants has argued that from the statement of deceased as well as from unnatural death report No.8 dated 21.01.2013 accident and involvement of tractor trolley is proved beyond doubt and therefore, in view of statements of mother and PW2, learned Tribunal ought to have allowed the claim petition. The learned Tribunal, on the other hand, has considered the evidence of PW1 and PW2 as well as statement of deceased dated 22.12.2012 and unnatural death report No.8 dated 21.03.2013 and concluded that no conclusion regarding rash and negligent driving on the part of respondent No.1 can be recorded as there is no material to that effect.

8. I do not find any error in the findings of fact recorded by learned Tribunal. In a petition under Section 166 of the Motor Vehicle Act, it is not only the accident and involvement of vehicle from whom compensation is sought is required to be proved, in addition to involvement, fact that vehicle of respondent No.1 had caused the accident on account of rash and negligent driving of its driver also needs to be established. Rash and negligent driving on the part of driver of offending vehicle is one of the ingredients which a claimant is bound to prove to succeed in claim petition under Section 166 of the Motor Vehicles Act.

9. In the present case, even if it is taken that offending tractor was involved in accident even then there is no material to conclude that it was respondent No.1 who was rash and negligent in causing the accident. The

deceased himself had suffered a statement during his lifetime disclosing that the accident had occurred on account of fact as he was trying to save some person and had hit the tractor trolley from back as headlight of his motorcycle was not working. These facts as stated by deceased were reiterated by uncle of deceased by lodging unnatural death report No.8 dated 21.01.2013. This in fact goes to show that no negligence can be attributed to respondent No.1. In these circumstances, no fault with the impugned award dated 24.07.2017 can be found.

10. Appeal is without merit and hence, dismissed.

16.09.2025

Janki

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No