



In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 4872 of 2024 (O&M)

Date of Decision: 16.01.2025

Deepak

... Appellant(s)

Versus

Neepa and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. D.S.Matya, Advocate
for the appellant(s).

Anil Kshetarpal, J.

CM-18331-CII-2024

1. For the reasons stated in the application, the same is allowed and delay of 228 days in filing the appeal is condoned.

FAO-4872-2024

2. Challenge in this appeal is to the award passed by the Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as “the Tribunal”). The appellant herein is the owner of a two wheeler which caused the accident.

3. At the relevant time, the vehicle was driven by respondent No.5-Gaurav, who had borrowed the vehicle from the appellant. He had caused accident resulting in death of a pedestrian, namely late Sh. Amit Kumar. Gaurav did not possess any driving licence. Thus, the Tribunal permitted the insurance company to recover the amount from the appellant.

4. The learned counsel representing the appellant contends that the mechanical report of the two wheeler has not been produced by the claimants and they have not proved the final report submitted by the police under Section 173 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”) which was summoned by the Tribunal from the criminal Court. He further submits that no eye witness has been examined.

5. This Court has considered the submissions of the learned counsel representing the appellant.

6. It would be noted here that the accident was caused by Gaurav, respondent No.1 in the claim petition who is respondent No.5 herein. He did not appear in the witness box. Hence, an adverse inference was required to be drawn against Gaurav. Moreover, the FIR was immediately registered against the respondent No.1 and the police, after investigation, came to a conclusion that the accident was caused by the driver of the two wheeler. In such circumstances, the Tribunal, on preponderance of evidence, came to a conclusion that the claimants have proved their case. The non-production of mechanical report would not be sufficient to non-suit the claimants who had lost their sole bread earner, namely late Sh. Amit. The claimants are the widow, minor child and parents of the deceased. The Tribunal summoned the final report submitted by the police under Section 173 Cr.P.C. for its own satisfaction, otherwise the final report was a part of the criminal trial which is pending against Gaurav. Even the appellant, who is the owner of a vehicle, has not come forward to depose in the Court.

7. Keeping in view the aforesaid facts, no ground is made out to interfere with the impugned award. Hence, the present appeal/is dismissed.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

January 16, 2025
“DK”

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