



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

**CM-5565-CII-2020 in
FAO-1740-1997
Date of decision : 03.04.2025**

MATA RANI

....Appellant

Versus

SECRETARY, PUNJAB TRANSPORT AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. H.K. Barinda, Advocate and
Mr. Dharam Pal, Advocate for the applicant/appellant.

Mr. Ishan Kaushal, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

CM-5565-CII-2020

This is an application filed under Order XLI Rule 19 r/w Section 151 CPC seeking restoration of the main appeal which was dismissed for want of prosecution vide order dated 10.02.2020 .

For the reasons recorded in the application, the same is allowed. Main appeal is restored to its original number and taken on board today itself.

FAO-1740-1997

Present appeal is directed against award passed by MACT, Ropar, dated 01.03.1997 whereby the claim petition filed by the claimants



seeking compensation on account of death of Rameshwar Mahato in a motor vehicular accident, dated 26.10.1994, stands dismissed.

2. Claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming that on the fateful day while the deceased was standing at the bus stand of village Rail Majra, bus bearing registration No.PB-12-A-9241 which was being driven rashly and negligently, struck the deceased. Deceased received multiple injuries and died on the spot.

3. Claim petition was contested by respondents No.1 and 2 pleading that the deceased was trying to cross the road ignoring the fact that the main road was meant for vehicles only. Bus was being driven at a normal speed and the accident was caused by negligence of the deceased himself.

4. Respondent No.3 filed separate written statement claiming that he was driving the bus at a normal speed. When the bus reached at bus stop Rail Majra, a truck was already parked on the road side. Bus was coming from the opposite side. Respondent No.3 retarded the speed of the bus. Deceased came running thinking that the bus was stopping and tried to board the bus. He struck against the truck which was already parked there. Resultantly, he died.

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

- “1. Whether the death of Rameshwar Mahato was caused as a result of rash and negligent driving of bus No.PB-12-A-



9241 by Nagina Singh respondent No.3 in the area of bus stand Rail Majra on 26.10.1994? OPA

2. Whether the claim petition is bad for misjoinder of parties?
OPR
3. To what amount of compensation, if any, are the claimants entitled and from whom? OPA.
4. Relief.”

6. PW-1 Dalbara Singh happens to be the eye-witness. As per his testimony, he was standing on the bus stand. The offending bus was being driven in a rash and negligent manner and struck against the deceased without blowing any horn which resulted in the death of the deceased. Tribunal discarded the testimony of Dalbara Singh and held that the accident did not take place due to rash and negligent driving of respondent No.3 as the post-mortem report does not show that deceased was crushed by wheels of the bus.

7. Ld. Counsel appearing for the appellants while assailing the impugned award passed by the MACT, Ropar, submits that FIR *qua* the accident was lodged on the statement made by Dalbara Singh (PW-1). Respondent No.3 Nagina Singh was tried and stands convicted for offences punishable under Section 279/304-A IPC and the said conviction stands affirmed up to this Court. He further submits that despite there being no reason to disbelieve testimony of PW-1, Tribunal erred in returning finding on issue No.1 against the claimants.



8. Per contra, State Counsel submits that the findings recorded by the Criminal Court are not binding upon the Tribunal. Tribunal has returned a well reasoned finding after analysing the entire evidence on record and thus no fault can be found with the finding of fact recorded by the Tribunal.

9. I have heard counsel for the parties and have carefully gone through records of the case.

10. Primary dispute between the parties relates to issue No.1.

11. It is matter of record that respondent No.3 stands convicted *qua* the same accident in FIR No.132 dated 26.10.1994 registered under Sections 279, 304-A IPC, at Police Station Rupnagar for having caused death of deceased due to rash and negligent driving. State Counsel is right in contending that the findings recorded by the criminal Court cannot be said to be binding upon the Tribunal. However, this Court cannot lose sight of the fact that the standard of proof in the criminal trial is 'beyond reasonable doubt' whereas the standard of proof in trying petition under Motor vehicles Act is merely 'preponderance of probabilities'. Thus findings *qua* negligence cannot be recorded ignoring the findings of criminal court. Apart from that, even in the written statement filed by respondent No.3, it is not denied that the deceased died of an accident involving bus driven by respondent No.3.

12. In these circumstances, burden shifted upon respondent No.3 to prove that he was not negligent and thus did not cause the accident.



Further, it is admitted that the bus was taken by the police in custody from the spot. No evidence was led to prove that respondent No.3 was not driving the bus, rather respondent No.3 himself admits that he was driving the bus.

13. In the background of these facts, Tribunal ought not have disbelieved the statement made by Dalbara Singh (PW-1) and should not have ignored the contents of FIR and police report. Resultantly, finding on issue No.1 is hereby ordered to be reversed. It is held that deceased Rameshwar Mahato died of accident caused due to rash and negligent driving of respondent No.3.

14. So far as quantum of compensation is concerned, Tribunal has rightly assessed the income of the deceased as Rs.1,500/- per month. Keeping in view the age of deceased at the time of accident i.e. 25 years, 40% needs to be added on account of future prospects. He was bachelor, thus deduction of 1/2 of the income of the deceased is to be made. As per the law laid down by the Supreme Court in the case of '**National Insurance Company Limited vs. Pranay Sethi and others**', (2017) 16 SCC 680, multiplier of 18 will be applicable. Appellant is held entitled for an amount of Rs.48,000/- for Loss of Consortium, Rs.25,000/- for Loss of Estate and Rs.18,000/- as funeral expenses. The claimant shall also be entitled for interest @ 9% per annum from the date of filing of the claim petition till actual realization of the amount.



15. The total compensation be calculated accordingly and paid to the claimant/appellant. The respondents are held to be liable jointly and severally.

16. As a sequel of the aforesaid discussion, the present appeal is allowed.

April 03, 2025

Dpr

(Pankaj Jain)

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No