



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-4165-2015 (O&M)

Date of Decision: 04.04.2025

Smt. Bharti and others

....Appellants

Versus

Pardeep and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Ram Pal Verma, Advocate for the appellants.

Ms. Sharmila Sharma, Advocate for respondents No. 1 and 2.

Mr. Pardeep Kumar, Advocate
for respondent No. 3-Insurance Company.

NIDHI GUPTA, J.

CM-13336-CII-2015

Prayer in this application filed under Section 151 CPC, is for condonation of delay of 48 days in re-filing the accompanying appeal.

Heard.

For the reasons stated in the application which is supported by an affidavit, the same is **allowed**; and delay of 48 days in re-filing the accompanying appeal is condoned.

FAO-4165-2015

1. Challenge in the present appeal filed by the claimants is to the Award dated 25.11.2014 passed by the learned Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as 'the learned Tribunal') whereby the claim petition bearing MACT Case No. 26 dated 30.01.2013/06.05.2013 filed by the appellant-claimants under Section 166



of the Motor Vehicles Act, 1988, has been dismissed. The four claimants are the: i) widow; ii) minor son; and iii) parents of deceased - Sujan Singh who was stated to be 31 years old at the time of accident.

2. Brief facts of the case as averred by the claimants in the claim petition are that deceased Sujan Singh was a resident of Gwalior, M.P. and was serving as Engineer with M/s Harayna Breweries, Murthal, District Sonipat a unit of SKOL Breweries Limited. On 04.12.2012, the deceased along with his colleague Bhupesh Sharma son of Ram Parkash were coming back to their residence on their respective vehicles. The deceased was driving his motorcycle bearing registration No. MP-7-KF-5024 and the said Bhupesh Sharma was coming behind in his car. At about 07.00 p.m. when they reached near Hanuman Mandir, Murthal Road, Sonipat, the deceased was driving his motorcycle at a moderate speed, by observing the traffic rules and intensity of traffic. A dumper trolley loaded with sand was parked in the middle of the road without any reflector, indicator and without placing any substance behind it to warn the traffic coming behind it. The deceased could not see the said trolley and struck his motorcycle against the said trolley causing the accident and the deceased died on the spot. The said accident took place due to the sole rash and negligent driving of respondent No. 1, who has wrongly parked his trolley on the road without observing the traffic rules and intensity of the traffic. The deceased was aged about 31 years of age. He was possession a sound physique and he was a man of sober habits. Had the deceased not died in the said accident, he might have lived up to the age of 80 years as the family of deceased is well known for longevity of life.



The claimants were fully dependent upon the deceased for their maintenance and livelihood. The deceased was working as an Engineer and he was having a very bright future.

3. The learned Tribunal on the basis of pleadings and evidence adduced before it concluded that it was not proved on record that the accident which took place on 04.12.2012 had taken place due to rash and negligent driving of the Tractor/Trolley bearing registration No. HR-10-U-4056 (hereinafter referred to as 'the offending vehicle') being driven by respondent No. 1-Pardeep Driver-cum-owner at around 7.00 P.M.

4. Learned counsel for the appellant-claimants, *inter alia*, submits that while dismissing the claim petition, the learned Tribunal has failed to take into account the evidence led by the claimant witnesses, all of whom have fully supported that case of the appellants. PW-3 Bhupesh Sharma, eyewitness of the accident had lodged the FIR No. 452 dated 04.12.2012 (Ex. P-15). The learned Tribunal has also ignored the evidence of PW-5 PSI Surender Kumar, Investigating officer, who had specifically stated that after receiving the information, he had reached at the spot and arrested the accused/driver-cum-owner of the offending vehicle/respondent No. 1 herein; and had also taken in possession the trolley vide recovery memo Ex. P-16. It is accordingly, submitted that the learned Tribunal has wrongly dismissed the claim petition filed by the appellants and prays that just and fair compensation may be awarded to the appellant-claimants.

5. *Per Contra*, learned counsel for respondent No. 3-Insurance Company vehemently opposes the submissions made on behalf of the



appellant and submits that in actual fact, the deceased had dashed his motor-cycle into the stationary trolley. Even no tractor/offending vehicle was attached with the said trolley. There was no registration number on the trolley. As such, the learned Tribunal has correctly held that there was no offending vehicle, and the accident had take place due to the deceased himself. It is accordingly, submitted that there is no error in the impugned Award and the present appeal be dismissed.

6. No other argument is raised on behalf of the parties.

7. I have heard learned counsel for the parties and perused the case file in great detail.

8. I find no merit in the submissions advanced on behalf of the appellants. It is undisputed fact on record that the trolley was parked on the road, and it was the deceased who had dashed his motorcycle into the stationery trolley. The very fact that the deceased had died on the spot would indicate that he was driving at very high speed and had perished on the spot with the impact of the collision with the stationary trolley. Perusal of the case file reveals that the alleged eyewitness namely, PW-3 Bhupesh Kumar, had also deposed that the deceased had *'struck his motorcycle against the standing trolley filled with sand'*. Thus, it has undisputedly come on record that the deceased had struck into the stationery trolley and had died with the impact of the collision.

9. Furthermore, it is also undisputed that only the trolley was parked at the site; and there was no tractor/offending vehicle on the spot of accident. Admittedly, the trolley bore no registration number. It has been admitted by PW-3 Bhupesh Kumar in his cross-examination that in



his statement to the police he had not mentioned the registration number of the tractor/offending vehicle or the name of its driver. He further admitted that the trolley was standing at the spot of accident; that there was no registration number on the said trolley; and that even the tractor/offending vehicle was not present at the spot. From the above facts, it is actually clear that there was no offending vehicle. As such, there is no question of rash and negligent driving of any offending vehicle by respondent No. 1.

10. Further, it has been admitted by PW-5 SI Surender Kumar, Investigating Officer in his cross-examination that at the time of accident, the trolley was not moving; whereas the deceased was driving the motorcycle. PW-5 has further admitted that several names and telephone numbers were written on the trolley including the name of one Pawan; the trolley bore no registration number, and that it can belong to anybody.

11. It is also to be kept in mind that it is the own admission of PW-3 Bhupesh Kumar the alleged eyewitness that he had reached the spot of accident 2 minutes after the occurrence. As such, the learned Tribunal has correctly held that PW-3 was not an eyewitness as he had not witnessed the same. The learned Tribunal has also rightly observed that merely because the tractor/offending vehicle is owned by respondent No. 1 would not automatically lead to the inference that the trolley is also owned by respondent No. 1. Even no adverse inference can be drawn against respondent No. 1 because he is facing trial in the FIR (Ex. P-15).



12. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings.

13 In view of the above, I find no infirmity or illegality in the impugned Award. The present appeal, being meritless, is **dismissed**.

14. Pending application(s), if any, shall also stand disposed of.

04.04.2025
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No