

(2014) 07 P&H CK 0810

High Court Of Punjab And Haryana At Chandigarh

Case No: F.A.O. No. 3223 of 2010

Kisho Rani

APPELLANT

Vs

Gurdeep Singh

RESPONDENT

Date of Decision: July 23, 2014

Hon'ble Judges: Navita Singh, J

Bench: Single Bench

Advocate: Surender Saini, Advocate for the Appellant; Gopal Mittal, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Navita Singh, J.

Learned counsel for the parties have been heard.

2. This appeal is preferred against the award dated 19.05.2009 passed by the Motor Accidents Claims Tribunal, Sonapat ("Tribunal"-for short), whereby compensation to the tune of Rs. 83,000/- was awarded to the appellants on account of injuries received by Mastana (since deceased) who was the husband of appellant No. 1 and father of appellant No. 2 and proforma respondents No. 1 and 2.

3. The case of the appellants was that Mastana died on account of injuries sustained by him in a road accident which occurred on 19.12.2006 at about 7:00 PM on Bahalgarh Road, Sonapat. At that time, the deceased along with his brother Daulat Ram was going back to his house after finishing labour work from Sector 14, Sonapat. They were on separate bicycles and when they reached in front of Hutch Mobile Company's Office near Hem Nagar Park, a truck bearing HR-39-7542 came from Bahalgarh side and hit the bicycle of the deceased who fell down and received grievous injuries. The truck was being driven by respondent No. 1 and was insured with respondent No. 3. The matter was reported to the police and a case was registered against respondent No. 1. The said respondent was driving the vehicle in a rash and negligent manner and caused the accident. The deceased was admitted

in General Hospital, Sonapat from where he was referred to PGIMS Rohtak. He suffered permanent disability in the legs and an amount of Rs. 2 lacs was spent on his treatment. Compensation was claimed to the tune of Rs. 7 lacs.

4. It may be necessary to mention here that initially the petition was filed by Mastana himself for claiming compensation for the injuries received by him. Later on he died and he was represented by his legal representatives.

5. Respondents No. 1 and 2 filed a joint reply to the petition initially filed and denied the averments due to want of knowledge. The ownership of the truck being in the name of respondent No. 2 was admitted and it was also admitted that the truck was insured with respondent No. 3. The factum of accident was, however, denied and the claim was stated to be false.

6. Respondent No. 3, i.e., Insurance Company inter-alia pleaded that the petition was not maintainable and that the company was not liable because respondent No. 1 was not holding a valid driving licence at the time of alleged accident and the vehicle was being driven in contravention of the terms and conditions of the Insurance Policy. The insured had also not informed the insurer about the accident. In any case, occurrence of the accident was denied.

7. On the pleadings of the parties, the following issues were settled by the Tribunal:-

1. Whether injuries to petitioner Mastana were caused in a road accident on 19.12.2006 allegedly due to rash and negligent driving of truck No. HR-39-7542 allegedly being driven by respondent No. 1-Gurdeep Singh, at that time? OPP

2. If issue No. 1 is proved, to what amount of compensation, the petitioner is entitled to and from whom? OPP

3. Whether respondent No. 1 was not holding a valid and effective driving licence and the truck was being driven in violation of the terms and conditions of the insurance policy, at the time of accident? OPR-3

4. Relief.

8. Learned counsel for the appellant argued that the Tribunal erred in holding that death of Mastana was not connected with the injuries received by him in the accident. The deceased, while he was injured, remained admitted in the hospital for three weeks and both his legs were operated upon. The Tribunal also did not award anything for permanent disability. It was further contended that Mastana had died due to the injuries suffered in the accident and, therefore, his legal heirs were entitled to receive compensation on that account and also on account of the permanent disability suffered while he was alive and under other incidental heads like loss of consortium, loss of estate and funeral expenses etc.

9. Learned counsel for respondent No. 3, however, controverted the arguments raised on behalf of the appellants on the ground that the Tribunal very rightly held

that there was no connection between the accident and death of Mastana. The accident took place on 19.12.2006 whereas the death occurred on 14.11.2008. The arguments are convincing because heavy onus lay on the appellants to show that the death of Mastana which occurred almost two years after the accident, was a result of the injuries suffered by him in that accident. It is clear from the evidence that serious injuries were received by the deceased only on the legs and not on any vital organ. It was not a case of head injury or coma having resulted due to any such injury nor there was any injury to the vital part of the body which could result in death after two years. There is no infirmity in the finding of the Tribunal that there was nothing suggested or proved that the death of Mastana had taken place due to the injuries suffered by him in the accident in question.

10. So far as disability is concerned, Dr. S.P. Sharma had appeared as PW1 and stated that as per the disability assessed, Mastana had suffered 85% permanent disability on account of injury in the right leg and injury on thigh and temporary disability to the tune of 35% in the lower limb. However, the original disability certificate was not proved and its copy was brought in evidence as Mark A. The Tribunal did not place reliance on that document as it was not proved as per law without the original being brought on record. No fault can be found with the award on that count as well. It was for the appellants to have proved the disability as per law.

11. No other point was urged on behalf of the appellants.

12. The appeal is dismissed.