

(2014) 12 P&H CK 0037
In the Punjab And Haryana At Chandigarh
Case No : RSA 4453 of 2014 (O and M)

Gurdeep Singh

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 16-12-2014

Acts Referred:

Citation : (2015) 178 PLR 428

Hon'ble Judges : Jaswant Singh, J

Bench : Single Bench

Advocate : Dilbagh Singh, Advocate for the Appellant;

Final Decision : Dismissed

Judgement

Jaswant Singh, J.

1. Plaintiff appellant, a Driver employed with Punjab Roadways, is in second appeal aggrieved against the judgment and decree dated 5.5.2014 passed by learned Additional District Judge, Chandigarh whereby appeal filed by the respondents/defendants was allowed and the judgment and decree dated 8.1.2013 passed by learned trial Court, decreeing the suit of the plaintiff, was set aside. Plaintiff, as noticed above, is employed with Punjab Roadways. On 22.10.2001, bus number PB-12-A-8333 being driven by him struck against a Tata Sumo No. HR-2E-0231 near Bus Stand, Ghurram, Distt. Ropar. In the said collision all the passengers and driver of the said Tata Sumo suffered multiple injuries and some of them succumbed to their injuries. Legal heirs of deceased persons filed claim petitions before learned Motor Accident Claims Tribunal. Learned MACT awarded compensation to the claimants. With regard to rash and negligent driving, the plaintiff was proceeded departmentally and a charge sheet was served upon him. After considering the reply filed by plaintiff, a regular departmental enquiry was initiated in which plaintiff was held guilty. On the basis of the enquiry report a show cause notice dated 12.2.2008 was served upon the plaintiff to which he filed reply. The punishing authority, after considering the

reply submitted by the plaintiff passed order dated 9.4.2008/23.4.2008 whereby punishment of stoppage of five increments with cumulative effect was imposed upon him. Plaintiff preferred an appeal which was dismissed by the Appellate Authority vide order dated 26.2.2010/8.3.2010. It is in these circumstances that plaintiff filed a suit for declaration to the effect that the orders dated 9.4.2008/23.4.2008 and 26.2.2010/8.3.2010 are illegal, arbitrary and against the rules and regulations. A further relief of mandatory injunction was sought for directing the respondents/defendants to release all the monetary benefits withheld in pursuance of the aforesaid orders.

2. The primary ground taken by the plaintiff in his suit was that the Enquiry Officer held him guilty solely on the basis of the award passed by the learned MACT and as such it was a case of no evidence.

3. On the other hand the defendants/respondents took the stand that a valid charge sheet was served upon plaintiff, full opportunity was granted to the plaintiff to defend him and after following due procedure punishment was imposed.

4. The aforesaid suit of the plaintiff was decreed by the learned Civil Judge (Junior Division) Chandigarh vide judgment and decree dated 8.1.2013. Aggrieved against the same, defendants filed an appeal which was accepted by the learned Additional District Judge, Chandigarh vide judgment and decree dated 5.5.2014, dismissing the suit of the plaintiff. Hence the present appeal.

5. It is submitted by the learned counsel for the plaintiff/appellant that the learned Appellate Court has erred in law inasmuch it failed to appreciate the fact that the Enquiry Officer has based his findings solely on the award passed by the learned MACT, and as such it is a case of no evidence. It is thus contended that the judgment and decree of reversal passed by the learned Appellate Court is liable to be set aside.

6. After hearing the learned counsel and perusing the paper book, in my opinion, no question of law much less substantial question of law arises for consideration in this appeal.

7. The learned Appellate Court, while accepting the appeal of the defendants and dismissing the suit has relied upon a Division Bench decision of this Court rendered in LPA No. 670 of 2012 titled as Gurmeet Singh v. The State of Punjab and others, decided on 1.4.2013, wherein it was held that the findings returned by the MACT on the question of rash and negligent driving, which attained finality, were binding in nature so far as the domestic enquiry is concerned.

8. In the present case, it is not disputed that learned MACT, has held that the accident in question took place due to rash and negligent driving of the plaintiff. The said findings were never challenged and have attained finality. It is not disputed that the awards of the learned MACT were tendered in evidence during the course of departmental enquiry, which in my opinion, are substantive piece of

evidence to prove the charges of rash and negligent driving on the part of the plaintiff which has not been rebutted by appellant/plaintiff by leading any cogent evidence. As regards the submission of the learned counsel for the appellant that the plaintiff could not be held guilty solely on the basis of the award passed by learned MACT, learned counsel for the plaintiff/appellant has not been able to cite any case law to support his contention. In view of the above, finding no merit in this appeal the same is hereby dismissed.