
(2014) 05 SHI CK 0084
In the High Court Of Himachal Pradesh
Case No : FAO No. 476 of 2012-D

Shri. Hoshiar Singh and Another	Vs	APPELLANT
Shri Rajiv Chauhan and Others		RESPONDENT

Date of Decision : 30-05-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2014) 05 SHI CK 0084

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : Rajiv Rai, Advocate for the Appellant; Bhawana Dutta, Advocate for R-1 and R-2 and Mr. Jagdish Thakur, Advocate for R-3, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Sanjay Karol, J.—Having heard learned counsel for the parties and more particularly considering the ratio of law laid down by the apex Court in *Minu B. Mehta and Another Vs. Balkrishna Ramchandra Nayan and Another*, as also *Reshma Kumari and Others Vs. Madan Mohan and Another*, , as pointed out by Mr. Jagdish Thakur, learned counsel for respondent No. 3, present appeal only merits rejection. In these decisions the Court has clearly held it incumbent upon the claimants, in a petition filed under the provisions of Section 166 of the Motor Vehicles Act, 1988, to prove negligence on the part of driver of the bus.

2. In the instant case, claimants being the legal heirs of deceased Beli Ram filed a petition claiming compensation against the owner, driver and insurer of the vehicle. Allegedly, Beli Ram was travelling in a vehicle (No. HP-63-4268) which met with an accident on 27.6.2007 and as a result thereof he expired.

3. Based on respective pleadings of the parties, Tribunal framed the following issues:-

1. Whether deceased Beli Ram died because of rash and negligent driving of bus

in question by respondent No. 2 on 27.06.2007? OPP

2. If issue No. 1 is proved in affirmative, whether the petitioners are entitled to compensation, if so, how much and from whom? OPP

3. Whether the petition is not maintainable against respondents as alleged? OPR

4. Whether the petitioners have no cause of action and locus standi to file the present petition? OPR-2

5. Whether the respondent No. 2 was driving the vehicle in question at the time of accident in question without any valid and effective driving licence, if so its effect? OPR-3.

6. Whether the vehicle in question was being driven at the relevant time against the terms and conditions of insurance policy? OPR-3.

7. Relief.

4. The claim petition, vide impugned award dated 31.8.2012, passed by Motor Accident Claims Tribunal-II, Shimla, stands dismissed.

5. No doubt, F.I.R. No. 141/2007 dated 28.3.2011 (Ex. PW4/A) was registered in relation to the accident in question, but however in Court, claimants have failed to establish any negligence on the part of driver Amar Singh.

6. Deceased (Beli Ram) died on account of injuries he sustained after allegedly falling from the bus in question. He was taken to the hospital where he was declared dead. However, from the statements of independent witnesses, Rupinder Singh (PW-2) and Hoshiar Singh (PW-3), it cannot be inferred that they witnessed the occurrence of accident. Their testimonies are more in the nature of hearsay. Claimants ought to have examined the person who witnessed the occurrence of the accident. Mere registration of an F.I.R. itself, in law, would not constitute established proof of negligence. Hence, in the absence of any clear, cogent and convincing material with regard to negligence of the driver or the fact that Beli Ram died by falling from the bus in question, present appeal only merits rejection.

With the aforesaid observations, present appeal is dismissed, so also pending application(s), if any.