
(2013) 07 P&H CK 0454
In the Punjab And Haryana At Chandigarh
Case No : FAO No. 433 of 1996

Smt. Muni Devi and Another	Vs	APPELLANT
Ishwar Dayal and Others		RESPONDENT

Date of Decision : 01-07-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 279, 304A

Citation : (2013) 171 PLR 479

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : J.S. Yadav, for the Appellant;

Final Decision : Dismissed

Judgement

K. Kannan, J.—The appeal is against the dismissal of the claim petition filed by the legal representatives of a male aged 32 years died in motor vehicle accident. It was stated in the claim petition that on 09.09.1992 when he was travelling in a Haryana Roadways bus bearing No. HNM 1742 on the way to his village Kakoriya from Rewari, the deceased had requested to the conductor of the bus to stop the bus near the farm house of Lal Singh-ex Sarpanch. At this, the driver and conductor of the bus had allegedly got annoyed but at the persuasion of other passengers, the driver stopped the bus in front of the farm house and when in order to alight the bus the deceased had kept his only one step on the ground, the driver started the bus on account of which the deceased had lost his balance and fell down on the ground after hitting against the bus. After seeing him falling on the ground, Hoshier Singh son of Matu Ram resident of village Rehnuwa, Surender Kumar son of Balwant Singh resident of Jaitpur-Sekhapur and Bhoop Singh son of Mukhtyar Singh resident of Mauja Rehnuwa got stopped the alleged offending vehicle and rushed the injured Bishambhar Dayal to the Civil Hospital, Rewari where he succumbed to the injuries. He was said to be working as a mason and earning Rs. 3500/- per month. It was also alleged in the claim petition that the FIR was got registered at the instance of one Davinder Singh

working in the Haryana Roadways, who gave a false narration of the facts and stated that the accident had been caused by an unknown four wheeler. The claimants had also gave a complaint under Sections 279 and 304A IPC to the JMJC against respondent No. 1, driver of the bus for causing death due to his rash and negligent driving. The respondent No. 1 in his written statement against the claim petition admitted the fact that on the date of accident he was driving bus No. HNM-1742 and the deceased was travelling in the bus for going to his village Kakoriya. He further stated that the deceased requested to stop the bus near the house of ex-Sarpanch for some personal work and after alighting from the bus, when he was trying to cross the road in front of the bus, an unknown four wheeler coming from Rewari side hit him and run away towards Pataudi. The respondent No. 1 had further claimed that he had chased the vehicle for about 10 kms but could not intercept the said vehicle nor he could note down the number of the vehicle due to darkness. After a failed chase, he came back to the site of accident and the injured was taken to the Civil Hospital, Rewari in his own bus on humanitarian ground. After admitting the injured, the respondent No. 1 left behind Davinder and two other passengers in the hospital and proceeded towards Pataudi with other passengers.

2. The two versions brought before the Tribunal arrived in this fashion. The first complaint to the police was through a FIR which was lodged a day after the accident where the unknown vehicle was said to have been involved. The driver of the vehicle also gave evidence to the effect that the deceased actually had alighted from the bus and while crossing the road, he was run over by another vehicle. He spoke to the effect that he had actually attempted to chase the other offending vehicle to some distance but he could not intercept the offending vehicle and he could not also identify the registration number of the vehicle due to darkness. The other version that has come has been in support of the case of the claimants that some passengers had actually noticed the deceased had got down from the bus and the Haryana Roadways itself had crushed the deceased under its tyres. This, in my view, seems most unlikely for if it were true, definitely any one of the passengers would have given a complaint to the police. The police investigation would have also revealed that the very same vehicle in which the deceased was travelling had caused the death and the particulars given in the FIR were not true. With the police investigation not proceeding in favour of the claimants and the driver of the Haryana Roadways himself giving his own version of how the accident took place, there is no reason to discard the same. This is particularly so in view of the fact that the Tribunal, which had the benefit of examining the witnesses in person and which had appraised the quality of evidence had come to the conclusion that the accident was not out of result of any negligent or rash driving of the Haryana Roadways or that there was even an involvement of the said vehicle in the accident.

3. In a typical situation of the vehicle having run over the deceased, the driver himself would have fled from the place after abandoning the vehicle. In this case, however, the fact that the driver had proceeded in hot pursuit and come back to

the spot and made an attempt to save the life by taking the deceased in his own vehicle to the hospital would vindicate the truth of the contentions raised by the driver. If there are two views possible, I would adopt the view which was considered by the Tribunal as more appropriate for affirmation.

4. This accident has taken place on 09.09.1992 after the new Act which makes possible a claim u/s 163 before the State Authorities for hit and run cases. The claimants shall have only remedy out of the consolidated fund providing for a scheme of payment of compensation and if such a claim is made, the same will be entertained by the State Authority without being in any way fettered by the law of limitation. It will also not doubt the cause of death as resultant to a motor accident in a hit and run situation and provide for compensation under the said scheme with interest @9% from the date of accident till the date of payment. The appeal is dismissed but with above observations.