
(2014) 02 P&H CK 0026
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 2789 of 1996

Urmila

APPELLANT

Vs

Punjab State

RESPONDENT

Date of Decision : 07-02-2014

Acts Referred:

Citation : (2014) 2 RCR(Civil) 991

Hon'ble Judges : Harinder Singh Sidhu, J

Bench : Single Bench

Advocate : Prateek Mahajan and Mr. B.R. Mahajan, Advocate for the Appellant; Piyush Bansal, DAG, Punjab for the State, Mr. P.S. Saini and Dr. Gopal Krishan, Advocates for the Respondent No. 4, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Harinder Singh Sidhu, J.—This appeal has been preferred by the claimants-appellants against the award dated 01.08.1996 passed by the Motor Accident Claims Tribunal, Amritsar (for brevity "the Tribunal") whereby their claim petition has been dismissed. Briefly the facts are that an accident took place on 11.02.1993 between Punjab Roadways Bus No. PB 32-A 9922 and Truck No. PB 02-B 9591 in the area of village Khara (Amritsar). In the accident Pritam Kumar, who was driving the bus and also Balwinder Singh who was driving the truck died.

2. Sukhraj Kaur and Charan Kaur, legal heirs of Balwinder Singh filed a claim petition on 20.03.1993 claiming compensation for death of Balwinder Singh. In this claim petition, the present appellants were not impleaded as party. The claim petition filed by the heirs of truck driver was decided on 28.04.1995 holding that death has been caused by the negligence of the bus driver. It was held that bus owner had failed to produce the conductor, who was the best person to depose about the cause of the accident.

3. The present appellants had also filed claim petition on 15.06.1993, claiming that accident had occurred due to rash and negligent driving of truck No. PB 02

9591 by its driver Balwinder Singh. In the said claim petition, they also produced eye witnesses Inspector Yash Pal AW-2 and Baldev Singh Conductor AW-3. The owners of the truck as also the Insurance Company with which the truck was insured and Punjab State, the owner of the bus were impleaded as respondents. Though the respondents had appeared and filed their written statement but none of them pleaded that any claim petition filed by heirs of the Truck driver was pending.

4. Vide impugned award of the Tribunal, the claim petition filed by the appellants has been dismissed on the ground that in the earlier claim petition filed by the heirs of the truck driver, it has been held that bus driver was negligent in driving the bus. The Tribunal held that the finding in that claim petition had become final. The award had been satisfied and no appeal was filed by the State. Taking the said finding to be final and binding, the tribunal refused to assess the evidence on negligence in the claim petition independently and accordingly, returned a finding against the appellants.

5. It has been argued by the learned counsel for the appellants that the finding of the Tribunal holding itself to be bound by the finding of the Tribunal in the earlier claim petition instituted by the legal heirs of the truck driver cannot be sustained in view of the settled legal position as flowing from various decisions of Hon'ble the Supreme Court and the High Courts. In this regard reference has been made to a Full Bench decision of Nagpur Judicial Court in the case of AIR 1930 1 (Nagpur) wherein the question referred for decision of Full Bench was as under:

Where a judgment was not in rem, nor relating to matters of public nature nor between the parties to subsequent suit is the fact that the Court by that judgment decided a point in a particular way relevant for the purpose of the decision of the same point in the subsequent suit.

6. This question was answered in the negative. In the course of the judgment, it was observed as under:

Again it is surely a fundamental principle of law that the opinion of any person, however eminent, regarding the validity of a claim is irrelevant for the purpose of a decision whether or not that claim is valid. A judgment is a judicial opinion rendered on the claims of the parties. The fact that the case has been heard and finally decided may render the question res judicata in a subsequent suit: but if it does not, surely this fundamental principle must apply.

7. Next reference was made to a decision of Hon'ble the Supreme Court in the case of State of Bihar Vs. Radha Krishna Singh and Others, , wherein in para 133, it was held as under:

133. The cumulative effect of the decisions cited above on this point clearly is that under the Evidence Act a judgment which is not inter parties is inadmissible in evidence except for the limited purpose of proving as to who the parties were

and what was the decree passed and the properties which were the subject matter of the suit. In these circumstances, therefore, it is not open to the plaintiffs-respondents to derive any support from some of the judgments which they have filed in order to support their title and relationship in which neither the plaintiffs nor the defendants were parties. Indeed, if the judgments are used for the limited purpose mentioned above, they do not take us anywhere so as to prove the plaintiffs' case

In this very judgment Hon^{ble} the Supreme Court referred to a decision of Privy Council and observed as under:

129. In AIR 1937 69 (Privy Council) , the Privy Council made the following observations:

Whether based upon sound general principle or merely supported by reasons of convenience, the rule that so far as regards the truth of the matter decided a judgment is not admissible evidence against one who is a stranger to the suit has long been accepted as a general rule in English law.

8. In the case of Kharkan and Others Vs. The State of Uttar Pradesh, , Hon^{ble} the Supreme Court held as under:

....In our opinion he cannot be allowed to rely upon the reasoning in the earlier judgment proceeding as it did upon evidence which was separately recorded and separately considered. The eyewitnesses in this case are five in number, while in the other case there were only two, but that apart, the earlier judgment can only be relevant if it fulfills the conditions laid down by the Indian Evidence Act in Ss. 40-43. The earlier judgment is no doubt admissible to show the parties and the decision but it is not admissible for the purpose of relying upon the appreciation of evidence....

9. It is true that strict provisions of the Evidence Act are not applicable for decision of the cases under the Motor Vehicles Act, 1988. In any event even in the cases where the Evidence Act is strictly applied, a judgment not inter parties or in rem is not considered relevant. The said judgment cannot and ought not to be considered as a bar to decide the claim by the Tribunal on appreciation of evidence. This is specially so considering the nature of enactment, which serves a socio economic purpose to compensate innocent victims who lose their life or limb on account of negligence of others.

10. In dismissing the claim and holding itself bound by the earlier award of a Tribunal, the Tribunal has relied on certain judgments where different claim petition has been filed by the claimant in which all claimants had the same interest. Since the findings were recorded in one award and the same was the defence in other and the respondents were also the same, the Courts held that the earlier awards were binding on the respondents. Such is not the case here where the appellants herein were not a party in the earlier claim petition and the respondents in the said claim petition particularly the State of Punjab and the

insurer of the truck, who were parties in that claim petition and are also the respondents in the instant claim petition did not make any effort to disclose the pendency of earlier claim petition or have these matters clubbed and decided together. Surely, the appellants should not suffer on that ground and they are liable to have their claim adjudicated on merits on the evidence produced in this case without any reference to the findings recorded in the earlier claim petition instituted by the heirs of the truck driver. Accordingly, the findings of the Tribunal in its award dated 01.08.1996 on issue No. 1 whereby it held itself bound by the findings of the Tribunal in the claim petition filed by the heirs of the truck driver are set aside and the case is remanded to the Tribunal to decide all the issues afresh in the light of the evidence already led by the parties without being influenced by the findings of the Tribunal in the claim petition filed by the heirs of the truck driver. As the accident is of the year 1993 and the claim petition and the appeal has remained pending since long so it would be in the interest of justice that the Tribunal proceed to decide the claim petition expeditiously preferably within a period of four months from the date of delivery of a certified copy of this order.

Disposed of accordingly.