

ANIL & ORS

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v.

NEW INDIA ASSURANCE CO. LTD. & ORS

(Civil Appeal Nos. 3291-3292 of 2011)

JANUARY 19, 2018

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**[DIPAK MISRA, CJI, A. M. KHANWILKAR AND
DR. D. Y. CHANDRACHUD, JJ.]**

Motor Vehicles – Accident – Claim for compensation – Tractor ran over the deceased – Tribunal held that the accident had occurred due to the negligence of the driver and granted compensation – High Court reversed the decision of the Tribunal – On appeal, held: The circumstance that no post-mortem was conducted on the deceased is an extremely significant aspect – The fact that a complaint was not lodged for nearly one month is a significant omission in the case – Also, there were no hospital records to indicate, from the nature of the injuries, that death had occurred due to an accident of the nature alleged – Each of the circumstance relied upon by the High Court is germane to the ultimate conclusion that a false case was set up to support a claim for compensation.

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Prosecution case was that PW-1 together with two others (including PW2) was proceeding in a tractor, when deceased signaled for the tractor to stop. However, the tractor ran over the deceased. Tribunal advertent to the evidence of PW1 and PW2, the alleged eye-witnesses and the FIR registered u/s.279/304-A, held that the accident had occurred due to the negligence of the tractor driver and granted compensation. However, High Court reversed the decision of the Tribunal. Hence the present appeals.

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Dismissing the appeals, the Court

HELD: 1. In appeal, the High Court has adverted in significant detail to a number of “disturbing facts” which have emerged from the narration of the case by the claimants. The circumstance that no post-mortem was conducted is an extremely significant aspect of the case which has justifiably weighed with the High Court. Moreover, the High Court found that if there were three passengers in the tractor, all of whom had known that

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A the driver had by his negligent act run over the deceased, the most natural conduct would have been to lodge a complaint. The person who died was the brother of the owner of the tractor. Hence, the fact that a complaint was not lodged for nearly one month is a significant omission in the case. The High Court has also noticed that there were no hospital records to indicate, from the nature of the injuries, that death had occurred due to an accident of the nature alleged. The deceased was conducting a transport business with his brother and was an income tax assessee. The fact that proper medical records were not available has, in this background, weighed with the High Court. [Para 3][323-D-E; 324-C-F]

2. Each of the circumstances relied upon by the High Court is germane to the ultimate conclusion that a false case was set up to support a claim for compensation. The appellants have not been able to displace the careful analysis of the evidence by the High Court and the findings which have been arrived at. [Para 4][324-G-H]

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 3291-3292 of 2011.

E From the Judgment and Order dated 06.09.2010 of the High Court of Punjab and Haryana at Chandigarh in Cross Objection No. 57-CII of 2006 and FAO No. 1357 of 2001 (O&M).

Aishwarya Bhati, Vishwajit, Ms. W. V. T. Sangama, Advs. for the Appellants.

F P. P. Nayak, Ajay Pal, Ms. Bhupinder, Ms. Vandana M. Hooda, Advs. for the Respondents.

The Judgment of the Court was delivered by

G **DR. D. Y. CHANDRACHUD, J.** 1. The Punjab and Haryana High Court by its judgment dated 6 September 2010 reversed a decision of the Motor Accident Claims Tribunal, Rewari dated 6 February 2001. The Tribunal awarded compensation of Rs. 21,38,000/- together with interest at the rate of 9 percent per annum to the appellants. The High Court reversed the award on the ground that the appellants had set up a “brazenly false case... to stage manage a fake involvement of the insured’s vehicle”.

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2. The deceased was a person by the name of Ram Kanwar. His brother Satbir Singh was the owner of a tractor. The case of the claimants which was sought to be established through PW1 Bhawani Shankar was that on 12 January 1995 he together with two others namely Rohtas and Ghanshyam (PW2) were proceeding in a tractor driven by Dharampal from Sehjahpur to village Jat Behrod. Ram Kanwar signalled for the tractor to stop. However, the tractor was driven in a rash and negligent manner, as a result of which, it ran over Ram Kanwar. Besides adverting to the evidence of PW1 and PW2, the alleged eye-witnesses, the Tribunal adverted to the FIR lodged against Ram Kanwar under Sections 279/304-A of the Penal Code. In holding that the accident had occurred and that it was caused due to the negligence of the tractor driver, the Tribunal observed thus:

“15. From the FIR Ex. PA death report Ex. PW8/1 of Ram Kanwar and un rebutted evidence led by the petitioner, it is proved on record that accident took place on 12.1.95 on account of rash and negligent driving of tractor No. RNL-2499 by its driver respondent No. 1 Dharampal and in the accident Ram Kanwar died. Accordantly, this issue is decided in favour of the petitioners.”

3. In appeal, the High Court has adverted in significant detail to a number of “disturbing facts” which have emerged from the narration of the case by the claimants. The High Court has adverted to the relevant aspects of the evidence thus :

“2. There are disturbing facts that emerge from the narration of the case by the claimants. In this case, the deceased was Ram Kanwar and his brother, Satbir Singh, was the owner of the tractor. PW-1 Bhawani Shankar, who claims to be an -eye-witness, states that he, along with two other persons namely Rohtas and Ghanshyam (PW2), were in the tractor driven by Dharampal. Ram Kanwar deceased was stated to have travelled in the same tractor also from Behrod to Shehjahanpur and alighted at Foladpur for some work and asked the driver to pick him up on his return. The tractor was returning at about 6.30 PM and the deceased Ram Kanwar was standing on the road. While he signalled the tractor to stop, the tractor ran over the deceased by rash and negligent driving of the tractor. It is stated that he was run over under the wheel of the tractor. The deceased was said to have been taken immediately to hospital at Kotputli where he was found bleeding excessively. Dr O.S. Mehra (PW4), who was at the

A hospital, has recorded this fact in the OPD slip (Ex. P2) and said to have referred the deceased for further treatment at the GH at Gurgaon. It is not known whether the deceased died at the hospital at Gurgaon or he had died at GH, Kotoputli itself. Admittedly, no post-mortem had been conducted.”

B Significantly, no post-mortem was conducted. The High Court also noticed the fact that though the accident took place on 12 January 1995, a complaint was lodged only on 15 February 1995. As regards the evidence of the driver, the High Court noted that while at one stage he had stated that the deceased was brought dead, at another place he stated that he was referred to the government hospital for further
C treatment. The circumstance that no post-mortem was conducted is an extremely significant aspect of the case which in our view has justifiably weighed with the High Court. Moreover, the High Court found that if there were three passengers in the tractor, all of whom had known that driver Dharampal had by his negligent act run over Ram Kanwar, the
D most natural conduct would have been to lodge a complaint. The person who died was the brother of the owner of the tractor. Hence, the fact that a complaint was not lodged for nearly one month is a significant omission in the case. The High Court has also noticed that there were no hospital records to indicate, from the nature of the injuries, that death had occurred due to an accident of the nature alleged. The deceased
E was conducting a transport business with his brother and was an income tax assessee. The fact that proper medical records were not available has, in this background, weighed with the High Court. Besides the above aspects, the High Court has found that the assessment of compensation by the Tribunal is perverse.

F 4. On a careful analysis of the judgment of the High Court and the material on the record, we find no reason to take a view at variance with that of the High Court. The reasoning contained in the award of the Tribunal was perfunctory. The Tribunal failed to notice crucial aspects of the case which have a bearing on the question as to whether the
G death of Ram Kanwar was caused as a result of the accident caused by the tractor. Each of the circumstances relied upon by the High Court is germane to the ultimate conclusion that a false case was set up to support a claim for compensation. The appellants have not been able to displace the careful analysis of the evidence by the High Court and the findings which have been arrived at.

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5. For the above reasons, we find no merit in the appeals. The A
appeals are accordingly dismissed. There shall be no order as to costs.

Ankit Gyan

Appeals dismissed.