

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2008 of 2001 (O&M)
Date of Decision:23.09.2015

Devinder Kaur and others

....Appellants

Versus

Angrej Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Vishal Gupta, Advocate for the appellants.
Ms. Vandana Malhotra, Advocate for respondent No.3-
New India Assurance Company Ltd.

NAVITA SINGH, J.

CM No.2014-CII of 2014

Application is allowed as prayed for.

FAO No.2008 of 2001

1. The appeal is preferred against the award dated 19.10.2000 passed by Motor Accident Claims Tribunal, Faridkot (Tribunal for short), vide which the petition filed by the appellants was dismissed.
2. The appellants had filed a claim petition for grant of compensation on account of death of Pritam Singh, who was husband of appellant No.1, father of appellants No.2 and 3 and son of appellants No.4 and 5. He died in a road accident which happened on 22.02.1999 in the middle of the night. A DDR was lodged on 23.02.1999 in the morning whereas FIR was registered on 10.05.1999 i.e. two and half months later.
3. Counsel for the appellants argued that the Tribunal wrongly dismissed the petition though proper evidence had been led to show that Pritam Singh had died in an accident which was caused on account of the negligence of the driver of maruti car No.PB-62-0058, in which the deceased was travelling. It was contended that Jaspal Singh AW-2 was the eye witness, who proved the

accident and it was incorrectly mentioned by the Tribunal in the award that his statement had not seen the light of the day. The said witness was examined as PW-14 in the criminal case as stated.

4. DDR was lodged by driver Angrej Singh, in which he mentioned that the flash light of the vehicle coming from the opposite side blinded him whereas in the FIR lodged two and half months after the accident, it was mentioned that the accident occurred due to the negligence of the driver of the car. Nothing was mentioned about any flash light as given in the DDR. Since the driver's version was the initial one made without delay, it would be taken to be correct. The appellants could have called the driver in the witness box and would have deposed to the same effect as it was categoric that he was not negligent. The appellants also did not set up any case in their petition in consonance with the version of the driver in the DDR.

5. It was mentioned in the FIR and in the petition that the car was being driven rashly and negligently by Angrej Singh and he lost control over the car on account of high speed. The FIR having been lodged more than two and half months after the accident, manipulation was made and it was an afterthought with the appellants to lodge a claim of compensation by pleading entirely different facts. So far as the driver having escaped unhurt is concerned, that would not create any doubt as in many accidents people do remain unhurt if they are fortunate enough. In the FIR, name of Jaspal Singh being the eye witness was not mentioned, though the FIR was lodged a long time after the accident. He was, therefore, an introduced witness in the petition. It is mentioned in the FIR that the deceased was taken to the hospital by the police officials who were on duty at the barrier. The presence of Jaspal Singh was nowhere shown.

6. Counsel for the appellants relied on Chaman Lal Vs. Anil Kumar and others, 2007(1) RCR(civil) 395, Yadwinder Sharma Vs. Pepsu Road Transport

Corporation and others, 2007(1) RCR(civil) 610 and Ranjeet Vs. Kailash and others, 2007(2) RCR(civil) 236. All the judgments are by Co-ordinate Benches of this Court, which view is not bound to be followed and also the facts of each case are entirely different.

7. The evidence was appreciated by the Tribunal in the right perspective and a reasonable conclusion was arrived at as emerged from the facts and evidence on record. It can be construed that the petition was a result of manipulation.

8. The appeal is dismissed.

(NAVITA SINGH)
JUDGE

23.09.2015
Ishwar

Whether to be referred to reporter: Yes