

**IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH**

-:-

**F.A.O No. 2535 of 2004 (O&M)
Decided on : February 23, 2015**

Shakuntla Devi & Ors.

... Appellants

Versus

Manjeet Singh & Ors.

... Respondents

CORAM : HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Azad Singh, Advocate, for the appellants.

Mr. D.K.Dogra, Advocate, for respondent No.3

Mahavir S. Chauhan, J. (Oral)

Unsuccessful claimants (appellants herein) are up in arms against award dated 14.02.2004, wherein learned Motor Accident Claims Tribunal, Ambala ('tribunal' – for short) has dismissed their claim application by holding that they have not been able to prove the occurrence as stated in the application.

Appellants' case before the learned Tribunal was that on 31.03.2000 Rakam Singh, the deceased, an agriculturist and dairy farmer by avocation, was travelling on the pillion of a scooter bearing registration No. HR-01-D-1814, driven by Sultan Singh at moderate speed and on correct left hand side of the road. When the scooter reached ahead of Village Saini Majra, near Peer Baba, a car bearing registration No. DBG-3289 being driven by respondent No. 1 Manjeet Singh in a rash and negligent manner

came from behind and hit the scooter. As a result, Rakam Singh fell down and received multiple injuries. He was referred to Post Graduate Institute of Medical Education and Research, Chandigarh ('PGI' – for short) where he succumbed to the injuries.

The application was contested by respondents No. 1 and 3 by filing separate written statements wherein all the allegations of the application were denied and it was stated that it was a case of 'hit and run' and the car bearing registration No. DBG-3289 was not at all involved in the occurrence.

From the pleadings of the parties learned Tribunal framed following issues:-

1. Whether the accident in question, resulting in the death of Rakam Singh, was caused because of rash and negligent driving of Car No. DBG-3289 by Manjeet Singh respondent No.1?OPP
2. If issue no.1 is proved, how much compensation the petitioners are entitled to claim and from whom? OPP
3. Whether respondent No.1 was not holding a valid driving licence at the time of the accident? OPR.
4. Relief.

Both the sides adduced evidence and were heard by the learned Tribunal. However, on issue No.1 pertaining to factum and manner of occurrence, learned Tribunal came to a definite conclusion that the appellants were not able to prove the factum and manner of occurrence as stated in the application. Accordingly, their application was dismissed, as

here-in-before stated.

I have heard learned counsel for the parties.

It is argued by learned counsel for the appellants that in the statement of Sultan Singh (PW-4) and the first information report, Exhibit P-1, factum and manner of the occurrence have been sufficiently proved but the learned Tribunal has failed to read in between the lines. The submission, however, is controverted on behalf of the respondents and it is submitted that in view of the conduct exhibited by Sultan Singh, his testimony could not be relied upon and in the absence of his evidence there is no material available on record in proof of factum and manner of occurrence.

Nothing more has been urged.

As per case pleaded on behalf of the appellants, Sultan Singh (PW-4) was driving the scooter on the pillion of which the deceased was travelling. This witness appeared before the criminal court and his statement, Exhibit R-4, has been placed on record of the learned tribunal in the instant case on behalf of the respondents.

Before the criminal court this witness has stated that nothing as stated in the application happened and that car bearing registration No. DBG-3289 was not involved in the occurrence. Not only this, he claims himself to be a friend of the deceased whereas it has come on record that he is none else than son of elder brother of the deceased. Such a conduct exhibited by the witnesses renders his testimony unacceptable.

Beyond this, there is no evidence, whatsoever, available on record in support of plea the appellants as regards factum and manner of occurrence.

Appellants having failed to prove negligence of respondent – Manjeet Singh to be responsible for the unfortunate occurrence have been rightly held by the learned Tribunal to be not entitled to any compensation.

In view of the above, I do not find any reason to interfere with the well reasoned award passed by the learned Tribunal. Consequently, the appeal fails and is dismissed leaving the parties to bear their own costs.

February 23, 2015
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[Mahavir S. Chauhan]
Judge