

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3013 of 2004 (O&M)

Date of Decision:24.02.2015

Ms. Nirupama and others

....Appellants

Versus

Mrs. Hardarshan Arora and another

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGHPresent: Ms. Dalveer Kaur, Advocate for
Mr. Salil Bali, Advocate for the appellants.Mr. Paul S. Saini, Advocate for respondent No.2-
National Insurance Company Ltd.**NAVITA SINGH, J.**

1. The present appeal is filed against the award dated 11.3.2004 passed by Motor Accident Claims Tribunal, Gurdaspur (Tribunal for short), whereby the claim preferred by the appellants for the death of Mulakh Raj Arora in a motor vehicle accident which took place on 16.5.2002, was rejected.

2. It may be pointed out at the outset that the petition was filed under Section 163-A of Motor Vehicles Act (Act for short) by the daughter and two sons of deceased Mulakh Raj Arora against their mother, who was owner of the vehicle, and the Insurance Company. The petition was dismissed on the ground that the accident was not proved.

3. Counsel for the appellants argued that the Tribunal erred in not appreciating the evidence, though it was amply proved on record that Mulakh Raj Arora had died in a road side accident, as pleaded by the appellants. The record from the hospital concerned was also called but the Tribunal rejected the claim on conjecture and surmises.

4. Counsel for the Insurance Company, however, argued that the appellants had miserably failed to prove the factum of the accident itself and that Mulakh Raj Arora had died on account of any such accident. The deceased remained hospitalized for few days, as was proved by getting the record from CMC, Ludhiana, but it was not mentioned therein that it was a case of road accident. Rather the notification regarding the death of Mulakh Raj Arora in the municipal record was brought in evidence as Ex.A1, which gave the cause of death as cardio-pulmonary arrest. No post-mortem was conducted on the body and no information was given to the police either by the family of the deceased or anybody else. It was clear that the appellants rested their claims on total falsehood. They were aware that they would not be able to prove their case and yet they were putting across a palpably false claim. The vehicle allegedly involved in the accident was being driven by the deceased according to the appellants. No eye witness, however, was there.

5. Even otherwise, the deceased was driving a borrowed vehicle, which was owned by his own wife and, therefore, he stepped in the shoes of the owner and his heirs alone entitled to any compensation. The petition filed by the appellants was frivolous and caused unnecessary harassment to the other side.

6. The appeal is dismissed with Rs.10,000/- as costs.

**(NAVITA SINGH)
JUDGE**

24.02.2015
Ishwar

Whether to be referred to reporter: Yes