

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

F.A.O No. 5063 of 2004 (O&M)

Date of decision:- 20.10.2015

Savitri and others

...Appellants

Versus

Yogi Raj and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. D.S. Nain, Advocate
for the appellants

Mr. Tanmay Gupta, Advocate
for respondent No. 1

None for respondent No. 2

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J.

1. This appeal has been filed by the claimants-appellants against order dated 01.05.2004 whereby the claim petition filed by the appellants was dismissed and they were not held entitled for compensation.

Facts not in dispute

2. On 05.06.2002, Rohtas had gone to Dhand and when he was coming back to Pharal on tractor bearing registration No. HR-05-2640, a jeep bearing registration No. HR-64-0349 being driven by Yogi

Raj came in a rash and negligent manner and hit the same against the tractor of the Rohtas, in which he received serious injuries on his stomach and other parts of the body. He was removed to Mittal Nursing Home, Kaithal from where he was transferred to Rajinder Hospital, Patiala where he succumbed to the injuries on 06.06.2003. However, a case i.e F.I.R No. 60 dated 05.06.2002 under Sections 279/337/427 IPC was registered against Rohtas (since deceased). Further the post mortem report has not been attached with the petition to show about the cause of death of deceased.

3. The Insurance Company also filed its written statement and took the same stand as taken by the driver of jeep.

4. The learned Tribunal after going through the entire evidence on record, held that the testimony of R.W.1 is corroborated by the facts mentioned in Ex R1/R2 and thus the testimony of P.W.2 carries no weight because admittedly he was known to the deceased from his childhood and has reasons to depose falsely to favour him. The vital blow given to the testimony of P.W.2 is photograph Mark X and Y placed on file by the respondents, which clearly depicts and confirm that the tractor has actually dashed against the jeep. The driver of the jeep was not at all negligent and was coming on his side and it was the tractor who has struck against the jeep in the middle of the left side.

5. A perusal of record shows that after issuing notice to the complainant, an untraced report was submitted by the police and the learned Chief Judicial Magistrate has ordered that F.I.R No. 60 dated 05.06.2002 be consigned as untraced and thus the report of the police is accepted. Further as per photographs (Mark X and Y) at page No. 93 of the record of the Tribunal, it was the driver of the tractor who was coming on wrong side and was at fault. Due to his fault, he hit his tractor in the jeep of Yog Raj.

6. In view of the above, the claim petition filed by the appellants has rightly been dismissed by the tribunal and thus, the findings of the learned tribunal does not require any interference by this Court.

7. The appeal stands dismissed.

20.10.2015

G Arora

(**RITU BAHRI**)
JUDGE