

THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2564 of 2011(O&M)

Rakesh

.....Appellant

Versus

Ishwar @ Lila and others

...Respondents

FAO No. 2566 of 2011(O&M)

Kuldeep

.....Appellant

Versus

Ishwar @ Lila and others

...Respondents

Date of decision : 09.02.2015

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of the local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Ms. Avnika Gupta, Advocate for
Mr. Naveen S. Bhardwaj, Advocate
for the appellant

Mr. Ramender Chauhan, Advocate
for respondent No. 2

ANITA CHAUDHRY, J.

C.M. No. 8747-CII of 2011

For the reasons mentioned in the application, the same is
allowed and delay of 42 days in filing the appeal stands condoned.

C.M. No. 8748-CII of 2011

For the reasons mentioned in the application, the same is allowed and delay of 47 days in filing the appeal stands condoned.

FAO Nos. 2564 and 2566 of 2011

These two appeals have arisen out of the same accident. The claim petition filed by both the appellants was dismissed by Motor Accident Claims Tribunal, Bhiwani vide its order dated 13.09.2010.

It would be relevant to give the facts first. On 12.02.2006 at 4.00 p.m. Ishwar @ Lila with two pillion riders namely Naresh and Rajender were going on a motor cycle, another motor cycle driven by Rakesh came from the opposite side. Both the motor cycles dashed against each other leading to injuries to all the riders. All the claim petitions were dismissed by the Tribunal. The claim petitions filed by Ishwar @ Lila, Naresh and Rajender Singh were dismissed as they failed to lead any evidence. The claim petitions filed by the appellants were dismissed on merits. The Tribunal noted that the FIR had been registered against Rakesh, appellant.

Having heard both the sides, I am of the view that there is no merit in the appeals. The facts are not in dispute. The accident had taken place on 12.02.2006. The appellant Rakesh in FAO No. 2564 of 2011 was driving a motor cycle with Kuldeep on the pillion. Another motor cycle came from the opposite direction. It was driven by Ishwar with Naresh and Rajender on the pillion. An FIR was got registered regarding the incident. The FIR was registered at the instance of by Ishwar @ Lila against Rakesh appellant. The Tribunal

noted that no complaint was made by Rakesh regarding his false implication. No independent eye witness was examined by the appellant. The submission on behalf of the appellants was that since the author of the FIR had failed to step into the witness box, therefore, the statement made by them had gone unrebutted and should have been accepted.

There is no merit in the submissions. The FIR had been registered against Rakesh. Kuldeep was pillion rider of the motor cycle. No complaint was made by them to give their side of the story. No independent witness came forward to support their version. The police had investigated the matter after the FIR was registered and challan was filed. The Tribunal noted that Rakesh failed to make a protest before the higher police authorities regarding his false implication. No evidence was led by the appellants to show that the driver of the offending motor cycle was on the wrong side of the road and had caused the accident. No site plan was placed on record for perusal. There is no reason to take a different view. Both the appeals are dismissed.

09.02.2015

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(ANITA CHAUDHRY)
JUDGE