

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

**FAO No.5313 of 2010 (O&M)
Date of Decision: September 10, 2015.**

Sadhu Ram

.....APPELLANT(s).

VERSUS

Usha and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amit Gupta, Advocate for
Mr. Vipin Mahajan, Advocate
for the appellant (s).

Mr. A.S. Manaise, Advocate
for the respondents.

SURINDER GUPTA, J.

This appeal has been filed by Sadhu Ram, owner and driver of motorcycle which caused accident resulting in death of Bansi Lal, husband of respondent No.1 Usha Devi and father of respondents No.2 to 4. The Tribunal calculated the amount of compensation as ₹2,95,000/- and after deducting the amount of ₹60,000/- already paid by the appellant under the settlement with claimant No.1 Usha, he was directed to pay ₹2,35,000/- with interest @ 6% per annum from the date of filing of claim petition till actual payment.

Learned counsel for the appellant has assailed the award on the ground that no FIR regarding the incident was recorded. No medical

evidence was produced to prove that death of Bansi Lal was due to the injuries received in the accident and in view of the settlement dated 27.08.2007 vide which ₹60,000/- were paid to Usha, claimants were estopped from filing the claim petition.

The accident in this case is not disputed. As per the compromise dated 27.08.2007 (mark-R1), the appellant had already paid ₹60,000/- as compensation to the claimant Usha. This compromise, in no manner, bars the statutory right conferred on the claimants to seek compensation under Section 163-A or 166 of Motor Vehicles Act.

In para 12 and 13 of the claim petition, the claimants have alleged that the deceased had died due to the grievous injuries sustained by him in the accident. In the written statement, this plea is not specifically denied. While appearing as AW1, claimant Usha wife of deceased had stated that her husband had died in the accident. Though she had not used the words that the injuries received by the deceased in the accident resulted in his death but the tone and tenor in which she deposed is a clear pointer of her saying that her husband had died due to the injuries received in the accident caused by the appellant. No suggestion was given to her that death of Bansi Lal had not taken place due to the injuries sustained by him in the accident.

In cross-examination, while appearing as RW1 Sadhu Ram appellant has stated that 'it is correct that due to the accidental death with my motor cycle, I have not paid to the applicants Rs.60,000/- as help'.

This shows that neither accident nor the death of Bansi Lal in the accident was disputed at any point of time. In these circumstances, it is

irrelevant as to whether FIR was got registered or not. It appears that the

matter had gone to the police, where compromise Ex.R1 was effected in the Police Station Dorangla. This shows that police was well aware of the accident but there was lapse on the part of the police that no FIR was registered and for this lapse, no inference can be drawn against the claimants, particularly when the accident is admitted.

In view of the above discussion, neither of the submissions made by learned counsel for the appellant have any merits and are discarded.

This appeal is dismissed being without merits.

September 10, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE