

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1)

FAO No.29 of 2013
Date of Decision:30.1.2015

Surender Singh and another

....Appellants

Versus

Prem Singh and others

....Respondents

(2)

FAO No.30 of 2013

Surender Singh

....Appellant

Versus

Prem Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present:

Mr. M.S. Khaira, Advocate for
Mr. D.S. Randhawa, Advocate for the appellants.Mr. Ashwani Talwar, Advocate for respondent No.3-
Branch Manager, M/s Bajaj Allianz General Insurance
Company Ltd.**NAVITA SINGH, J.**

1. Both the above appeals were filed against the award dated 29.9.2012, vide which two claim petitions, one for the death of Sunita Kumari and the other for the death of minor Jatin, were dismissed.

2. The appellants assailed the dismissal of the petitions on the ground that the Tribunal wrongly held that rash and negligent driving by respondent No.1 of the offending vehicle was not proved.

3. Counsel for the appellants argued that FIR was registered on the date of accident itself on the statement of appellant-Surender Singh but later on, about 15 days after the accident, one Danvir, who had witnessed the accident, went to Surender Singh and told him that he had seen the accident, which had been caused by the driver of the vehicle mentioned in the petition. Surender

Singh then contacted the Investigating Officer and made a supplementary statement on 30.11.2008. The date of accident was 15.11.2008.

4. The arguments advanced on behalf of the appellants are liable to be discarded because at the time of FIR Surender Singh stated that some unknown vehicle had hit the vehicle on which he and others were travelling. He did not even know what type of vehicles hit them. Even if it was dark at the time of accident, he would at least know whether it was a car, a bus or a truck. How suddenly the so called eye witness appeared from the blue was not explained. Surender Singh, in his statement in the court, stated that he was hit from behind by a maruti swift car. He gave the number. According to him, he learnt the details from Danvir. Said Danvir, one fine morning, decided to go to the house of Surender Singh and inform him about the vehicle involved in the accident. It was dark enough for Surender Singh to be not able to see the vehicle whereas it was not dark for Danvir who could even note down the number of the car which allegedly caused the accident. God Almighty must have gifted Danvir with the special pair of eyes so that he could even see number of the car though it was pitch dark, when Surender Singh even could not make out whether it was a car, a two-wheeler, a bus or even a truck.

5. The eye witness just happened to be standing on the road probably waiting for the accident to take place. By the time the witness was cross examined, he forgot the year and month of the accident for which he was tutored and could only say that the date was 15th of some month. He said that the persons injured i.e. the family of the Surender Singh, was known to him but for reasons best known to him, he did not extend any help at that time. He did not know the number of the motor-cycle of Surender Singh, the number of the Van in which the injured was transported to the hospital but he was able to note down

only the number of the swift car. The appellants appear to have made an effort to put forth their claim based on a number of surmises and not on actual facts.

6. Surender Singh is working in Police Department, which explains a lot of things that he could have managed. Another interesting aspect, as noted down by the Tribunal, was that according to the intimation given by the hospital which formed a part of inquest report, Sunita Kumari and Jatin were admitted in the hospital with the history of roadside accident, having been hit by a Dumper (Lorry) and they were taken to the hospital by Devender Tewatia. The appellants, therefore, came up with a cock and bull story to claim compensation from the Insurance Company and decided to involve a vehicle which was validly insured.

7. The appeals are absolutely devoid of merit and are dismissed.

(NAVITA SINGH)
JUDGE

30.1.2015
Ishwar

Whether to be referred to reporter: No