

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

F.A.O No. 4074 of 2014

Date of decision:- 22.09.2015

Nachhatar Kaur

...Appellant

Versus

Ram Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. H.P.S. Ghuman, Advocate
for the appellant

Mr. Lalit Garg, Advocate
for respondent No. 2.

Mrs. Gurnam Kaur Turka, Advocate
for respondent No. 3

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

RITU BAHRI J.

The claimant/appellant has filed this present appeal against award/order dated 02.12.2013 whereby the claim petition filed by the claimant was dismissed.

2. On 03.06.2008, Bhupinder Singh was going from village Naraina to village Gadane while driving a CT-100 motorcycle bearing registration NO. CH-03-U-2824 and when he crossed village Biro Majri, then his motorcycle struck against the Bajaj Chetak Scooter No. PB-11-K-8843, which was coming from village Biro Majri, due to which, the

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deceased fell down on the right side of the road along with his motorcycle and received serious injuries and died on the spot. F.I.R No. 93 dated 03.06.2008 u/ss 279/304-A/427 IPC read with Sections 177/181 of Motor Vehicles Act was registered at P.S. Bassi Pathana. As per claimant, the deceased was earning Rs.3300/- per month.

3. On notice of the claim petition, respondent No. 1 filed written statement and stated that his son had died in road accident and the motorcycle is insured with respondent No. 2.

4. Respondent No. 2-Insurance Company in his written statement has denied the fact of accident, age of deceased as well as his earnings and pleaded that the alleged FIR is a result of collusion and connivance of the claimant with the police as well as respondent Nos. 1 and 3.

5. Respondent No. 3 alleged that Bhupinder Singh was not a labourer and nor he was earning Rs.3300/- per month. The deceased was old aged person and respondent No. 1 has colluded with the claimant.

6. From the pleading of the parties, following issues were framed:-

“1. Whether on 03.06.2008, Bhupinder Singh met with an accident with motorcycle bearing No. CH-03-U-2824, which resulted into his death ? OPP

2. Whether the claimant is entitled to received the

compensation ,if so, what amount and from whom? OPA

3. *Whether the claim petition is not maintainable ?*

OPR3

4. *Whether the driver of the offending vehicle was not*

holding the valid and effective driving licence at the time of

alleged accident? OPR3

5. *Relief.”*

Issues No. 1 to 3 are taken up together being inter-connected. The learned Tribunal has come to a finding that the claimant herself has admitted that previously also a petition was instituted and the same was withdrawn by her on 19.12.2009 vide order Ex P7, according to which, she was not granted permission to file a fresh petition. The parties have amicably settled their dispute before the Lok Adalat and hence order dated 19.12.2009 was passed and no permission has been granted to the claimant to file fresh petition. Respondent No. 1 is husband of the claimant and the deceased was their son. Respondent No. 1 and claimant are residing together and by filing the present petition, they wanted to take money from the Insurance Company by colluding with each other.

The learned Tribunal has held that claimant has connived with respondent NO. 1 to dupe the public money from their own insurance company i.e respondent No. 2, which is not permissible

under the law. Claimant further failed to prove the fact that Bhupinder Singh died due to accident on motorcycle No. CH-03-U-2824, thus, she was not held entitled for compensation and the claim petition filed by her was dismissed.

Once the claim petition filed by the widow and son of late Bhupinder Singh was withdrawn by them, as the matter got settled between the parties, thereafter, the second claim petition filed by the present appellant was rightly dismissed by the learned Tribunal as she was not granted permission, vide order dated 19.12.2009 to file the second claim petition. Both husband i.e respondent No. 1 and wife i.e claimant have colluded with each other to get the claim again, which was not permissible under the law. Further the claimant has not been able to show that why the earlier petition was withdrawn by them, after the notice had been issued to the Insurance Company.

In view of the above, the findings of the learned tribunal does not require any interference by this Court.

The appeal stands dismissed.

22.09.2015

G Arora

(**RITU BAHRI**)
JUDGE