

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

FAO No.619 of 2013 (O&M)

Date of Decision: 12.05.2015

Indrawati

.....Appellant

Versus

Chander Bhan and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present:- Mr. S.K.Chauhan, Advocate,
for appellant.

Mr. Ramender Chauhan, Advocate,
for the respondents.

SHEKHER DHAWAN, J

Appellants-claimants have challenged the award dated 07.12.2012 by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred as 'The Tribunal') whereby 'The Tribunal' dismissed the claim petition filed by appellant-claimant.

2. Brief facts relevant for the purpose of decision of the case that on 06.07.2009 she along with her husband was going to her fields. At about 10.am, motorcycle bearing registration No.HR-21-C-6493, which was being driven by respondent No.1 in a rash and negligent manner struck against the appellant. Appellant sustained injuries. Respondent No.1 fled away from the spot after causing the accident. Injured was shifted to General Hospital,

Bhiwani for medical treatment. Matter was reported to the police on 31.07.2009 and FIR was registered and claimant claim compensation.

3. Respondent contested the claim petition. 'The Tribunal' after considering the material and evidence available on file dismissed the claim petition mainly on the ground that in fact accident had taken place on 06.07.2009 because of rash and negligent driving of respondent No.1 while driving motorcycle bearing No.HR-21C-6493.

4. Mr. S.K.Chauhan, Advocate, learned counsel for appellant took the plea that appellant had sustained greivous injuries and she remained unconcious. Her husband was engaged in looking after the injured. The name and address of respondent No.1 was not available and that is why FIR was not got registered. On 28.07.2009 he had moved an application before Registration Authority, Hansi and on 29.07.2009 application was moved for medical examination and for preparation of MLR. The reasons of failure on the part of the Medical Officer in not sending the ruqa is known to him only.

5. 'The Tribunal' has completely ignored this fact. So, claim petition be accepted and suitable compensation be awarded.

6. Mr. Ramender Chauhan, learned counsel for respondents took the plea that there are absolutely no grounds for acceptance of the present appeal because there was no material or evidence available on file that appellant in fact sustained injuries in any motor vehicle accident much less to say involving No.HR-21-C-6493. There was no reason for the appellant to remained silent till 28.07.2009. There was no medical examination. So the appeal be dismissed.

7. Having considered the rival contentions, this Court is of the considered view that the alleged accident had taken place on 06.07.2009.

The appellant allegedly sustained greivous injuries on 06.07.2009. She must had been taken to some hospital. In that eventuality her presence must have been recorded in the hospital. There is no record regarding any such medical treatment. There is no reporting of the matter to the police till 31.07.2009. Even for a moment if it is admitted that appellant was unconcious because of greivous injuries, her husband Ravi Dutt was eye witness to the accident. There was absolutely no bar for him not to make statement before the police at any point of time from 06.07.2009 till 31.07.2009.

8. 'The Tribunal' had rightly recorded the finding that there was complete absence of any medical record showing injuries having been sustained by appellant on 06.07.2009 with involvement of motorcycle bearing No.HR-21C-6493 or involvement of respondent No.1.

9. In view of the above the present appeal is without any merit and same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

May 12, 2015

msd