

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4255 of 2015 (O&M)
Date of Decision: July 16, 2015

Shri Ram General Insurance Company Ltd.

...Appellant

Versus

Priti and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajbir Singh, Advocate for
 Mr.Sanjeev Goyal, Advocate
 for the appellant-Insurance Company.

INDERJIT SINGH, J.

Appellant Shri Ram General Insurance Company Ltd. has filed this appeal against claimant-respondent Priti, respondent Rakesh Singh, driver, Sanjay Singh, owner of vehicle bearing registration No.HR-47A-7636 (offending vehicle) and Dayawanti (mother of deceased), challenging the impugned Award dated 20.03.2015 passed by learned Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'Tribunal'), vide which compensation of ₹6,42,000/- was awarded to the claimants along with interest @ 7.5% per annum from the date of filing of the petition till realization of the amount.

It is the case of the claimants that on 08.02.2013, Pawan along with his friends Satender, Vipin and Sombir had gone to village

Binjan was in Alto car bearing registration No.HR-19G-0605 and when they reached near BPS School, in the meanwhile, one vehicle bearing registration No.HR-47A-7636 being driven in a rash and negligent manner, while overtaking the Alto car, struck the side with car, due to which occupants of the car i.e. Sombir, Vipin and Pawan sustained injuries and Pawan succumbed to the injuries at the spot. The injured and dead body of Pawan were taken to General Hospital, Bhiwani. It is stated in the claim petition that deceased Pawan was earning ₹50,000/- per month by doing part time job in WWS Company Hisar and tuition work.

Upon notice, respondent-driver and owner took preliminary objection that no accident had been caused by respondent-driver while allegedly driving the offending vehicle rashly and negligently. They further pleaded that a false FIR has been registered against respondent-driver. Respondent-Insurance Company took the plea that no accident had taken place as alleged by the claimant and a false FIR has been registered.

Claimant examined herself as PW-1 and Vipin as PW-2 and relied upon the documents Ex.P1 to P5 and Mark A to K. On the other hand, respondents relied upon documents Ex.R1 to R3 and Ex.RA.

On the basis of the evidence, learned Tribunal awarded compensation as mentioned above vide impugned Award dated 20.03.2015. Aggrieved from the above-said Award, present appeal has been filed by the Insurance Company.

At the time of arguments, learned counsel for the appellant argued nothing regarding quantum of compensation. He only argued that false vehicle has been planted in this case. No such accident had taken place and there is collusion between the driver and owner with the claimant.

After hearing learned counsel for the appellant and after going through the record, I find that in the present case, FIR has been registered, as argued against the pick-up vehicle and number has not been mentioned nor the name of the driver has been mentioned. As per the claimant's version as well as the FIR, PW-2 Vipin was travelling in the car in which the deceased was travelling. The eye witness Vipin also suffered injuries in the accident in question. The presence of eye witness cannot be disbelieved. Furthermore, there is no reason or ground as to why the false FIR would be registered against the driver of offending vehicle. The criminal trial is going on in which always there is risk of conviction. Why the driver would take the risk to get convicted or sentenced without any reason. Neither the driver is related to the claimant nor the owner of the offending vehicle is related to the claimant. No representation/complaint has been filed by the driver/owner for registration of false case against them. If the offending vehicle has been falsely involved or false case has been registered against the driver, the natural course for them is to make complaints and to ask for enquiry but no such step has been taken by the owner and driver.

The Tribunal has relied upon the law laid by this Court in

Lakhu vs. Uday Singh, 2008(1) RCR (Civil) 805, wherein, it is held that facts of registration of FIR and trial of the accused in a criminal Court are sufficient to arrive at a conclusion in the case under the Motor Vehicles Act that the accident has taken place. Otherwise also, the eye witness has been examined by the claimants. The documents i.e. FIR and report under Section 173 Cr.P.C. are corroborating the statements of the witnesses. Neither the driver nor the owner nor any other witness has been examined by the respondents to state that no such accident has taken place. There is not an iota of evidence to show any collusion between the driver and owner on one side and claimant on the other side.

Keeping in view the above discussion, I find that the findings given by the Tribunal are correct, as per law and do not require any interference from this Court and the same are upheld.

Therefore, finding no merit in the present appeal, the same is dismissed.

July 16, 2015
Vgulati

(INDERJIT SINGH)
JUDGE