

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

FAO-6314 of 2014

Date of decision:21.02.2015

Suman and others

..... Appellants

VERSUS

Narender and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present: Mr. Rahul Vats, Advocate for
Mr. Ashwani Kumar Antil, Advocate
for the appellants.

MAHAVIR S. CHAUHAN J. (ORAL)

Claimants had approached the learned Tribunal to seek compensation alleging death of Sanjay (for brevity-the deceased) in a motor vehicle accident stated to have been caused at about 11:00 p.m. on 27.01.2011 by rash and negligent driving of respondent-Narender of a Tractor bearing registration No.HR-11C/0501.

Written statements were filed by the respondents, wherein all the allegations of the application were denied.

Following issues were framed by the learned Tribunal:-

- 1. Whether the accident in question resulting into death of Sanjay took place by use of Tractor bearing No.HR-11C/0501 being driven by respondent No.1? OPP.*

2. If issue No.1 is proved in affirmative, whether the petitioners are entitled to compensation? If so, to what amount and from whom? OPP.

3. Whether the respondent No.1 was not holding a valid and effective driving licence at the time of accident and the insured violated the terms and conditions of the insurance policy? If so, to what effect? OPR-5.

Both the sides adduced evidence and were heard by the learned Tribunal to reach a conclusion that the appellants were not able to prove the occurrence and as such, their claim application was dismissed vide award dated 21.02.2014, the correctness whereof is under challenge in this appeal.

I have heard learned counsel for the appellants.

It is argued by learned counsel that the best evidence of occurrence was Narender, respondent No.1, however, appellants could not bring him in witness-box but in order to prove the occurrence, appellants had placed on record copy of DDR No.20 dated 28.01.2011, which was lodged by respondent No.1 himself in regard to the occurrence in question.

Perusal of the file, however, reveals that two witnesses were examined on behalf of the appellants. These are PW1-Suman and PW2-Rajesh. Both of them have stated in their cross-examination that they did not witness the occurrence. Narender,

driver of Tractor bearing No.HR-11C/0501, no doubt was a respondent before the learned Tribunal but this could not prevent the appellants from summoning him as a witness. However, no reason has been shown for not summoning him as a witness in support of the case of the appellants. No other evidence, whatsoever, has been brought to prove the factum and manner of occurrence as claimed in the claim application. Learned counsel for the appellants has not been able to refer to any such evidence even during the course of hearing.

In view of the above, I do not find any reason to interfere with the well reasoned award passed by the learned Tribunal.

Dismissed.

No costs.

February 21, 2015
m. sharma

(Mahavir S. Chauhan)
Judge