

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

**FAO No.4974 of 2015 (O&M)
Date of Decision: September 14, 2015.**

National Insurance Company Limited

.....APPELLANT(s).

VERSUS

Smt. Chhotto Rani and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. D.R. Bansal, Advocate
for the appellant (s).

SURINDER GUPTA, J.

This appeal has been filed by National Insurance Company Limited against the award dated 08.05.2015 whereby the Motor Accident Claims Tribunal, Fatehabad (later referred to as the Tribunal) allowing compensation of ₹6,24,800/- for the death of Jaiveer (later referred to be as the deceased) in a motor accident.

The case of the claimants, in brief, is that on 10.05.2014 at about 07.30 p.m. the deceased was coming to his village Kanheri from his fields on motorcycle bearing registration No.HR-08K/0274. When he reached near Dera of Baba Siya Nath, he was hit by a Maruti Ritz car bearing registration No.HR-32F-7500 (later referred to as the offending vehicle) being driven by Manjeet, respondent No.6, who was driving the offending vehicle in a rash and negligent manner at a very high speed. The occurrence was witnessed

by Ramesh Kumar son of Balbir Singh, who was following the deceased on a separate motorcycle. As a result of the accident, Jaiveer fell on the road and sustained multiple grievous injuries. Manjeet Singh sped away from the spot. Deceased was taken to General Hospital, Tohana where he was given first aid and was then referred to higher medical institution but succumbed to the injuries while coming out of General Hospital, Tohana. FIR No.180 dated 11.05.2014 was registered at Police Station City Tohana regarding the accident. It was alleged that deceased was agriculturist and was cultivating 10 acres of land by taking the same for cultivation on contract basis. He was having an income of ₹20,000/- per month.

The driver and owner of the offending vehicle in their written statement denied the accident and contested and controverted all the averments of the claimants.

Appellant in its written statement also denied the accident and other averments of the claimants.

I have heard learned counsel for the appellant and have gone through the record with his assistance.

While assailing the award, learned counsel for the appellant has argued that in the FIR, which was registered on the next day of the accident, Ramesh Kumar, who claims to be an eyewitness, had not named the vehicle which caused the accident or had even given its number. In fact, the accident had not taken place with the offending vehicle, which has been falsely involved in this case at later stage.

The Tribunal has relied on the testimony of Ramesh Kumar who

while appearing as PW1 has stated that accident had taken place due to rash

and negligent driving of the offending vehicle by its driver Manjeet Singh. He has stated that he had noticed the car from a distance of about 50 paces. At the time of accident, this car was going at a speed of more than 100 kms per hour. The driver of the car after the accident initially stepped down from the car and then sped away from the spot along with his car. PW4 Ashok Kumar has stated that after police investigation, final report in case bearing FIR No.180 dated 11.05.2014 was presented in the Court and Manjeet Singh was facing the trial before the Court. He has further stated that driver of the offending vehicle in his statement had confessed the accident with the motorcycle of deceased. He had proved on file report of mechanic who inspected the offending vehicle on 26.05.2014. In his report, the mechanic has reported that the right side glass of the offending vehicle had been newly fixed, bonnet and right side of vehicle had been provided denting and painting. It is also proved on file that this vehicle had met with an accident and the appellant had paid the compensation for the damage to the vehicle. In the survey report (Mark-R4), the date of accident of the vehicle was mentioned as 12.05.2014 and the place of accident as Meham. It was mentioned that accident was caused by Tata Ace vehicle. However, this accident was never reported to the police and it is evident that an attempt was made by the driver of the offending vehicle to give a twisted version regarding the accident. Falsity of the version of the driver of the offending vehicle is evident from the statement of Manjeet Singh. While appearing as RW1 he has stated that the accident of his car had taken place with a tralla. He perhaps could not recollect that in the record of the insurance company,

than a tralla. Though the particulars of the vehicle do not find mention in the FIR, still it is not a reason to disbelieve the statement of Ramesh Kumar. It is well known that after such incidents, attempts are made to reach amicable settlement, thereby withholding some relevant facts. However, in this case, the police after investigation had been able to reach offending vehicle and its driver. The claimants are residents of village Kanheri Tehsil Tohana. There is nothing on file that the driver and owner of the offending vehicle, who are residents of village Nehra, Tehsil Narwana, are having any affinity with the claimants to falsely involve their vehicle in this case and also to face trial in a criminal case.

In view of the above facts and circumstances, the Tribunal has committed no error of law and fact while reaching to the conclusion that the accident was caused by the offending vehicle.

No other point has been argued.

On perusal of the record and award passed by the Tribunal, I find no legal or factual infirmity therein calling for any interference.

This appeal has no merits. Dismissed.

September 14, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE