

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3501 of 2002 (O&M)
Date of decision : April 12, 2016

Roshni and others,

..... Appellants

v.

Kulwant Singh and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Balraj Gujjar, Advocate
for Mr. GS Sandhu, Advocate
for the appellants.

Mr. Suvir Diwan, Advocate
for respondent No.3.

1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

Ajay Tewari, J (Oral)

As per the office report, notices issued to respondents No.1 and 2 have been received back unserved for want of correct addresses. Counsel for the appellants states that these respondents were served at this very address and were ex-parte before the Tribunal. Consequently, service upon respondents No.1 and 2 is exempted.

This appeal has been filed against the Award dated 2.2.2002 passed by the Tribunal dismissing the claim petition. Allegations were that the deceased was travelling on his jhota bughy on 3.7.1999 when the truck being driven rashly and negligently by respondent No.1 and owned by respondent No.2 hit the jhota bughy, as a result of which the deceased suffered injuries and died. The plea of the Insurance Company was that in

fact, no accident had taken place with the truck of respondents No.1 and 2 and the claim petition was filed by the claimants in collusion with the said respondents to defraud the Insurance Company and to set up and establish a false claim for compensation.

The Tribunal held that the claimants were not able to prove that the accident had taken place with the truck being driven by respondent No.1 and owned by respondent No.2 despite the fact that they had admitted the accident. For coming to this conclusion, two reasons weighed with the Tribunal. The first was that the vehicle was taken on sapurdari by one Harish Kumar who had been involved in various cases of accidents. The second reason which weighed with the Tribunal was that the author of the FIR was the brother of the deceased who had stated that he could not see the number of the vehicle because of darkness. The said person did not appear in the witness box. However, one Karambir appeared in the witness box who stated that he was at a distance of 1½ killa away. He also stated that when he went to the police, he did not give the name of the driver (though he very glibly mentioned in the witness box). He also stated in one breath that he did not know the deceased and in the next he stated that he had gone to the village of the deceased to inform his relatives. On the strength of these statements, the Tribunal had held that he was not a credible witness. Consequently, the claim petition was dismissed.

In view of these facts, I do not see any ground to take a different view. Consequently, this appeal is dismissed.

(AJAY TEWARI)
JUDGE

April 12, 2016
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