

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

FAO No.247 of 2003 (O&M)

Date of decision: 07.01.2016

Gagan Deep Kaur and others

...Appellants

Versus

Jeet Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Atul Gaur, Advocate for
Mr. Sumeet Goel, Advocate,
for the appellants.

Mr. Abhishek Goyal, Advocate for
Mr. Pardeep Goyal, Advocate,
for respondent No.3.

JITENDRA CHAUHAN, J. (Oral)

The instant appeal has been preferred by the appellant-claimant against the impugned Award dated 15.11.2002, passed by the learned Motor Accident Claims Tribunal, Panchkula, (for short, 'the Tribunal').

The learned counsel for the appellants contends that the learned Tribunal erred in dismissing the claim petition filed by the claimants-appellants despite the fact that there were sufficient material on record to prove the accident. The accident has been admitted by PW-3, Narpinder Singh, however, the learned Tribunal has not taken into consideration his testimony. The deceased had

died due to rash and negligent driving of Swaraj Mazda Truck bearing No. HP-12-2033 which hit the scooter of the deceased.

On the other hand, the learned counsel for the respondent No.3-Insurance Company contends that the accident has been denied consistently and the initial burden to prove this fact was on the appellant, which he has failed to discharge.

I have heard the learned counsel for the parties and perused the record.

The FIR in the instant case was got registered by Bagga Singh, brother of deceased. As per his version, he received a telephonic call at 2 a.m that his brother had met with an accident with some unknown vehicle. The claimant has produced PW-3 Narpinder Singh in support of his claim whose statement was recorded on 03.03.2001, whereas the alleged accident took place on 27.02.2001. PW-3 Narpinder Singh was stated to be an eye witness who had deposed that he saw the accident and offending vehicle. He tried to stop 3-4 vehicles but in vain. He had admitted that the place of occurrence was near a petrol pump and village Rajgarh, however he did not take any step to rush to the petrol pump or to report the matter to the police, therefore, the Tribunal has rightly held that testimony of the the eye witness did not inspire confidence. Furthermore, the deceased who was working as driver with PRTC terminated on 04.06.1997, whereas the

claimants/appellants had filed the claim on the basis of false averments that the deceased was still in service. From the above discussion, it is apparent that eye witness i.e. PW-3, Narpinder Singh, was a made up witness.

In view of the above, this Court is of the considered opinion that the learned Tribunal has rightly held that no accident, as projected by the appellants, took place and thus, compensation was rightly denied to them.

Dismissed.

07.01.2016

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**(JITENDRA CHAUHAN)
JUDGE**