

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

**FAO No.2313 of 2000 (O&M)
Date of Decision: August 30, 2016.**

Dalbir Kaur and others

.....APPELLANT(s).

VERSUS

Rajinder Singh

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. H.S. Sitta, Advocate
for the appellant (s).

Mr. Assem Aggarwal, Advocate for
Mr. Harsh Aggarwal, Advocate
for respondent No.3.

SURINDER GUPTA, J.

This is appeal against the award dated 09.12.1999 passed by Motor Accident Claims Tribunal, Ropar, dismissing the claim petition filed by the claimants.

2. As per the claimants, Jagga Singh (later referred to as 'the deceased') died in a motor vehicle accident with truck bearing registration No.PUR-995 (later referred to as 'the offending vehicle') on 22.09.1996. The facts relating to the accident have been given in para 24 of the claim petitioner, which are reproduced as follows:-

“That on 22.09.1996 at about 8.30 P.M.,the deceased Jagga Singh was going on road on his left side on foot, in the meantime, truck bearing No.PUR-995 driven by its driver namely Rajinder Singh rashly and negligently came from Kurali side and ran over the deceased and respondent No.1 sped away from the spot with his truck.”

Respondents No.1 and 2, in their joint written statement, denied

that any accident took place due to rash and negligent driving of the offending vehicle by respondent No.1. It was alleged that a person of middle age in a drunkard condition hit against the right side rear portion of the truck and the accident was not caused due to rash and negligent driving of respondent No.1.

3. The insurer of the offending vehicle i.e. New India Assurance Company contested the claim petition, inter-alia pleading that a false and concocted story regarding the accident has been put forth in collusion with respondents No.1 and 2. In fact, no accident had taken place with the offending vehicle.

In order to prove the accident in question, the claimants examined Mangal Singh, eyewitness of the accident as AW2, who stated that the deceased was going on his cycle, when he was hit and ran over by the offending vehicle.

4. The matter was not reported to the police and no FIR was registered in this case. The dead body of the deceased was also not taken to the hospital for its examination or post-mortem. The claimants have stated in their claim petition that the deceased was going on foot on left side of the road, while Mangal Singh, alleged eyewitness of the accident has stated that the deceased was going on bicycle when he was hit and crushed by the offending vehicle.

5. The Tribunal disbelieved the statement of Mangal Singh and also the factum of accident as projected by the claimants.

6. Admittedly, no application was moved to the police or to any authorities of the police seeking registration of the case. There is no explanation as to why the deceased was not taken to the hospital and why the dead body was cremated without any post-mortem. In the absence of any

medical evidence or reporting of the matter to the police, the Tribunal has rightly discarded statement of Mangal Singh. The claim petition was filed about nine months after the incident. There was enough time and opportunities with the claimants and also Mangal Singh, who is resident of village of the deceased, to report the matter to the police.

7. Learned counsel for the appellants-claimants has mainly stressed on the point that respondents No.1 and 2 have not denied the accident, as such, the Tribunal has committed grave error while concluding that the accident is not proved.

8. Respondents No.1 and 2 have taken a guarded version regarding the accident that some middle aged drunkard person struck against the rear portion of the truck. This appears to be the result of collusion between the claimant and respondents No.1 and 2. It is not believable that Mangal Singh had seen the accident and he had not shifted the injured/deceased to the hospital. In the absence of medical evidence, it is also doubtful if the death of Jagga Singh was caused due to the injuries suffered in motor vehicle accident.

9. In view of above discussion, I find myself unable to reach a different conclusion than arrived at by the Tribunal, dismissing the claim petition.

10. This appeal has no merits.

Dismissed.

August 30, 2016.

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

√
Yes/No

Whether Reportable:

√
Yes/No