

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

**FAO NO.2463 of 1998 (O&M)
DECIDED ON : 10.05.2016**

Chandri and others

...Appellants

versus

Mohd. Mukhiya and others

...Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Yogesh Saini, Advocate for
Mr. Manoj Bajaj, Advocate,
for the appellants.

Ms. Amrita Nagpal, Advocate for
Mr. Anil Kumar Rana, Advocate,
for the respondents.

1. Whether Reporters of local papers 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)

This appeal has been filed against the dismissal of claim petition.

As per the case set up by the claimants, the accident had taken place on 27.12.1995 at 5.30 PM. The FIR was lodged by one Ravinder, who had not mentioned the number of vehicle of the respondent. The said informant never appeared in the Court to give his testimony but one Mahesh claimed himself to be an eye witness and testified in the Court. The trial Court found

his evidence to be not credible and came to the conclusion that the appellant had not been able to establish that the accident had taken place with the vehicle of the respondent.

Learned counsel for the appellant has argued that testimony of Mahesh is clear and cogent and the Tribunal erred in discarding the same.

Learned counsel for the respondent, however, points out that during the course of his cross-examination, Mahesh had claimed that he had seen the number of vehicle from the distance of half kilometer.

As per learned counsel for the appellant, in the evening at 5.30 PM on 27.12.1995, it may not be fully dark but it will definitely be twilight and the number of the vehicle may be discernible at a distance and consequently, the findings given by the Tribunal are incorrect and liable to be interfered with.

In my view, the argument of learned counsel for the respondent carries more weight. Even in broad day light, it would not be possible to read with normal vision the number of a vehicle at a distance of half a kilometer and it would become more difficult at 5.30 PM on 27th December. At that time the sun has gone down and dusk has descended. Moreover, the Tribunal also noticed that even though Mahesh was closely known to the deceased but after the accident, he directly went home and did not disclose about the accident to anybody for the next ten days.

In these circumstances, I do not find any ground to interfere with the well reasoned judgment of the Tribunal and consequently dismiss the appeal.

(AJAY TEWARI)
JUDGE

MAY 06, 2015
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