

203.

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

FAO No.970 of 2003 (O&M)

Date of decision:15.02.2016

Sunil

... Appellant

versus

Lalit Kumar and others

.... Respondents

II. FAO No.971 of 2003 (O&M)

Harjit Kaur and others

... Appellants

versus

Lalit Kumar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Pawan Attri, Advocate,
for Mr. Ashit Malik, Advocate,
for the appellants.

Mr. Ravi Gakhar, Advocate,
for Mr. Jagdish Manchanda, Advocate,
for respondents 1 to 3.

Mr. R.N. Singal, Advocate,
for respondent No.4.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The appeals are against the orders passed dismissing the claim petitions of inability to prove the involvement of the insured's

vehicle. The accident was said to have taken place on 10.10.1999 at 10 PM and a FIR had been registered on the following day by one Jagtar Singh who reported that two persons riding on a motorcycle had been killed in a roadside accident and it was on account of the involvement of an unknown vehicle. 5 days later, the statement is reported to have been given by two persons, who were examined as PW3 and PW5, who stated that they were witnesses to the accident but they did not report the matter to the police immediately and they chanced to give a statement to the police, when the police elicited the fact of involvement of the insured's vehicle. The driver of the vehicle gave evidence to the effect that on that day, the vehicle did not ply on that road and it was plying on a different route and produced octroi slip to show that he had gone on another route and he had paid the octroi on that particular night. The Tribunal found the evidence of PW3 and PW5 to be untrustworthy and dismissed the petition.

2. The counsel for the appellants states that PW3 and PW5 were independent persons and there was no need for them to utter falsehood. The independent persons who take 5 days' time to report the matter to the police is an unusual conduct and if there was no explanation given as to why they could not immediately give a complaint, I cannot take a view different from how the Tribunal has approached the issue. The counsel would also contend that even if

the octroi slip had been produced, it cannot prove that he was going on another road for even if the vehicle had gone by the same route, the octroi could have been paid only at the place where it had been ultimately paid. The payment of octroi slip was a mere test to the credibility of the contentions of the driver that he was not travelling in that route but travelled through yet another road and also paid octroi on that day. The driver's evidence was most crucial and the evidence had also been believed and the Tribunal was proceeded to dismiss the claim petitions. I cannot find any error for interference.

3. The only remedy for the claimants will be to approach the State for assistance for the compensation from the State fund set apart for hit-and-run cases under Section 163 of the Motor Vehicles Act. If any such claim is made within 6 weeks from the date of receipt of copy of this order from the competent authority, the death as resulting through the use of motor vehicle and as a hit-and-run situation shall be taken as concluded through this order. If there is also a delay in approaching the State, the delay shall be taken as condoned by this order. The competent authorities shall entertain the claim from persons who are ultimately entitled to the same and provide the same in accordance with law within a further period of 4 weeks from the date of receipt of copy of petitions with the necessary documents as set down under the relevant rules.

4. The appeals are dismissed but with the above observations.

(K.KANNAN)
JUDGE

15.02.2016
sanjeev