

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

FAO-410-2007 (O&M)
Date of decision: 12.04.2016

Urmila Godara and others

...Appellants

Versus

Rajinder Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Ms. Kshitija Mittal, Advocate for
Mr. Pardeep Solath, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

JITENDRA CHAUHAN, J.

This appeal has been filed by the claimant-appellants against the impugned award dated 05.09.2006, passed by learned Motor Accidents Claims Tribunal, Hisar, (for short, 'the Tribunal').

The learned counsel for the appellants contends that the learned Tribunal has wrongly dismissed the claim petition on the ground of delay in lodging the FIR as the injured-deceased, Dalip Singh Godara and his family members were busy in rescuing the life of the injured. The injured-deceased had suffered disability of 55% of limb and 22% of whole body. The learned Tribunal has totally misinterpreted the statement of the driver of the offending vehicle who himself admitted the involvement of vehicle.

On the other hand, the learned counsel for respondent No.3

has vehemently opposed the prayer made by the appellants and states that the statement made by the driver is contrary to the pleadings of his written statement. The accident had occurred on 04.05.2002 and the FIR in this regard was registered on 07.05.2002.

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

In the present case, neither the injured-deceased nor the eye-witness, Jaswant, relative of the injured-deceased, disclosed the registration number of the vehicle. The said eye-witness could lodge the FIR but he opted not to do so, therefore, delay of three days in lodging the FIR remains unexplained. Even this eye-witness suffered a statement with the police after twenty-four days. For the involvement of the offending vehicle, the appellants relied upon the statement of the driver. However, the same cannot be held to be trustworthy, as at the time of making the statement he had changed his version which he pleaded in the written statement. No doubt, admission is the best proof. However, admission by the driver cannot by itself absolve the claimant-appellants from proving their case. In this way, in the absence of cogent or convincing evidence, this Court feels that the claimants failed to discharge the initial burden of proving the involvement of the vehicle. Therefore, no fault could be found with the findings recorded by the learned Tribunal.

Dismissed.

12.04.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**