

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

FAO-964-2007 (O&M)
Date of decision: 25.01.2016

Surja Ram

...Appellant

Versus

Gulshan Kumar @ Mulla and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Kulwant S. Dhanora, Advocate for the appellant.

Mr. Siddarth Sharma, Advocate for
Mr. Sunil Panwar, Advocate
for respondent Nos.1 and 2.

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

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JITENDRA CHAUHAN, J.

This is claimant's appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 19.09.2006, passed by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal').

The learned counsel for the appellant states that the learned Tribunal has wrongly dismissed the claim petition of the appellant merely on the ground that there is delay in lodging the FIR, however, ruqa Ex.P36 had been sent by the hospital and the

police had been informed which finds reference in the FIR. Since the family was busy in taking care of the injured/deceased-Nanda Ram, father of the appellant, FIR was registered on 16.07.2003. Therefore, the judgment dated 19.09.2006, is liable to be set aside.

On the other hand, the learned counsel for the respondents have vehemently opposed the appeal and submit that the appellant himself is a government servant, therefore, he is not dependent upon his father.

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

The learned Tribunal has passed the judgment dated 19.09.2006, after evaluating the entire facts and circumstances of the case, which suggest that there is material contradiction in the statement of the appellant and evidence placed on record. The appellant submits that he himself brought injured/deceased Nanda Ram to the hospital but the MLR shows that the same was brought by one Manoj. The appellant did not explain as to why his statement was not recorded, if he had witnessed the accident, for which the FIR was lodged after 12 days. The factum of accident, alleged to be caused by respondent No.1, is also not proved. No proof was led by the appellant to prove that his father was running a milk dairy or that he was an agriculturist. The deceased was 70

years old and the appellant was not dependent upon him. Therefore, this Court feels that the learned Tribunal has rightly passed the judgment dated 19.09.2006 and awarded compensation of Rs.1,05,995/-, provided under the Motor Vehicles Act, 1988 along with payment of medicine & tests.

The award by the learned Tribunal does not suffer from any perversity or illegality.

Accordingly, this appeal is dismissed.

25.01.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**