

207.

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

FAO No.5226 of 2006 (O&M)

Date of decision:15.03.2016

Achhi Devi and others

... Appellants

versus

Vinod and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Ram Kumar Saini, Advocate,
for the appellants.

Mr. Vipul Sharma, Advocate,
for Mr. Paul S. Saini, Advocate,
for respondent No.3.

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 appeal is against the dismissal of the petition claiming compensation for a death in a motor accident that had taken on 24.01.2002. A FIR that was registered merely referred to an unknown vehicle and the police after carrying out investigation gave an untraced report to the magistrate. The case was, however, founded on a plea by the representatives of the deceased that the brother of the deceased was coming to the Hansi city for his personal work and when he was going back to Village Jamawari, he

saw a Tata 407 which he thought the very same vehicle which had caused the accident 3 weeks earlier. He confronted the driver, who immediately confessed that he caused the accident that resulted in the death of his brother. The Tribunal did not believe the confession, nor do I. It is too artificial an evidence coming from the person who is perhaps most interested in securing compensation for the benefit of family members. There must be something natural for a person to own up to a fault 3 weeks later. If the vehicle had really been involved and he had confessed to the accident, the most natural conduct would have been only to inform the police and see that the driver was brought to book. It is simply unbelievable that the family would take so affectionately to a driver who had caused accident and ran away from the place without leaving a trace and suffered a statement 3 weeks later to accept that he was responsible in a friendly chat. The whole story was rightly rejected by the Tribunal. I will find no reason for modifying the same.

2. However, I find that the case could be treated as a hit-and-run accident and the claimants will have the benefit of securing compensation in the manner Section 163 of the Motor Vehicles Act provides. It will be open to the claimants to apply to the State before the competent authority in the manner Section 163 provides and if there is any delay in filing the application, the fact of pendency of the case before the Tribunal and this court could be

cited for exclusion of time. The cause of the accident as resultant to use of a motor accident shall be taken as having been concluded through this judgment and no further evidence would be necessary.

3. The appeal is dismissed but with liberty given to the claimants to approach the alternative forum as provided above.

(K.KANNAN)
JUDGE

15.03.2016
sanjeev