

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

**FAO-3430-2011 (O&M)
Date of decision: 18.05.2016**

Bundo Devi and others

...Appellants

Versus

Munshi Lal Sharma and another

...Respondents

CORAM:HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Pankaj Middha, Advocate for the appellants.

None for respondent No. 2.

JITENDRA CHAUHAN, J.

The instant appeal has been preferred by the claimant-appellants against the impugned Award dated 16.12.2010, passed by learned Motor Accidents Claims Tribunal, Chandigarh, (for short, 'the Tribunal'), vide which the claim petition filed by the appellants was dismissed.

2. The learned counsel for the appellants contends that the learned Tribunal erred in discarding the testimony of material witnesses. The deceased was 60 years at the time of accident and was engaged as a labourer in shutter manufacturing. The appellants are fully dependent upon his income. The learned

Tribunal has dismissed the claim of the appellants merely on account of non-examination of eye witness, which is not sustainable in the eyes of law.

3. I have heard the learned counsel for the appellants and perused the record.

4. The deceased was 60 years at the time of accident. The claimant-appellants being his legal heirs have claimed compensation on account of his death. It is asserted that on 19.09.2009, at about 7.30 pm, the deceased was going on his cycle and when he reached at dividing road of Sector 9 and 13, Faridabad, the offending vehicle i.e. scorpio No. HR-51-AB-9120 in a rash manner came from opposite side and hit the cycle of the deceased resulting into death of the deceased. The FIR, Ex.P2, was registered to this effect on the statement of one Raj Kumar, eye witness to the occurrence, who has not been examined to prove the factum of accident. The rest of the witnesses produced by the appellants are formal in nature as they had not witnessed the occurrence. Furthermore, as per testimony of PW-4, ASI Sewa Ram, the number of the vehicle was not given by said Raj Kumar in his first statement and he told the number in his supplementary statement. Said Raj Kumar had stated that he had also received injuries but there is nothing on

record in this context. Thus, in the absence of any cogent, convincing and trustworthy evidence, it is held that there is no irregularity or perversity in the award passed by the learned Tribunal.

Dismissed.

18.05.2016

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**(JITENDRA CHAUHAN)
JUDGE**