

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

FAO-3456-2013 (O&M)

Date of decision: 18.02.2016

Satvir and others

...Appellants

Versus

Arjun Dev and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vivek Aggarwal, Advocate,
for the appellant.

Mr. Himanshu Raj, Advocate,
for respondent Nos.1 and 2.

Mr. Aditya Kochar, Advocate,
for Mr. Ashwani Talwar, Advocate,
for respondent No.3.

JITENDRA CHAUHAN, J.

This is claimant's appeal challenging the impugned award dated 06.02.2013, passed by the learned Motor Accident Claims Tribunal, Kurukshetra, (for short, 'the Tribunal'), whereby, their claim petition has been dismissed.

The claim petition was filed on the ground that in the evening of 11.10.2011, Ram Kumar (since deceased) was going from Village Begpur to Village Kheri Shaheedan, on motor cycle

bearing registration No.HR-99 (FRHQ) Temp 5052, being driven by claimant-Darshan Singh. One Sultan Singh son of Jaimal Singh was also following them on motorcycle No.HR-41C-9969. When they reached near the turning point of Kaithal-Pehowa Road, the offending car bearing registration No.HR-20V-8194, being driven by respondent No.1 in a rash and negligent manner, came from the opposite side and struck against the motorcycle of Darshan Singh. As a result thereof, both the occupants of the vehicle fell down and suffered injuries. Respondent No.1 fled away from the spot. The injured were removed to the Saraswati Mission Hospital, Pehowa, from where, Ram Kumar was referred to PGI, Rohtak. However, Ram Kumar succumbed to his injuries and died on 17.10.2011. FIR No.292 dated 14.10.2011, under Sections 279, 337, 304-A IPC came to be registered against respondent No.1 at Police Station, Pehowa.

The claim petition was contested by the respondents. In their written statement, respondent Nos.1 and 2 stated that no accident, as projected, ever took place. The FIR was registered after a delay of three days.

In its separate written statement, respondent No.3, Insurance Company, pleaded that the respondent driver was not holding a valid and effective driving licence at the time of the

accident. It was also stated that the alleged accident did not occur in the manner as projected by the claimants.

After hearing learned counsel for the parties and perusing the evidence brought on record, the learned Tribunal dismissed the claim petition filed by the claimants by holding that the claimants have failed to prove that the accident took place due to rash and negligent driving of Car No.HR-20V-8194 by respondent No.1.

Hence, the present appeal.

The learned counsel for the appellants argued that as against the settled principle of law that the registration of FIR against the offending driver is sufficient to prove that the accident was caused due to his rash and negligent driving, the learned Tribunal dismissed the claim petition. He further refers to the MLRs of the deceased Ram Kumar, Ex.P10 and Darshan, Ex.P11, wherein, the Medical Officer has mentioned that the injuries were caused due to roadside accident.

On the other hand, the learned counsel for the respondent-Insurance Company refers to Ex.R2, the writing of Dr. Krishan, wherein he has noticed that Ram Kumar was admitted on 13.10.2011, for cervical and spine injury suffered due to fall from motorcycle and that he denied that it was a police case or any other

vehicle was involved in the accident.

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

In the present case, Sultan Singh, PW4, has been projected as an eyewitness to the accident. Admittedly, Sultan Singh is the real brother of Darshan Singh, injured. This witness has stated that after the accident, he and Darshan Singh removed injured Ram Kumar to the hospital. On the contrary, as per the medico legal report of Ram Kumar, Ex.P10, the injured was got admitted in Saraswati Mission Hospital by one Shish Pal. Thus, the presence of Sultan Singh at the time of accident is not proved.

Similarly, the testimony of Darshan Singh, injured is also not trustworthy. During his examination as PW2, he testified that after the accident, he became unconscious on the spot. As against this, the MLR, Ex.P11, of Darshan Singh reveals that he was semi-conscious at the time of admission in the hospital. Furthermore, if he had become unconscious on the spot, it was not possible for him to remove the injured Ram Kumar to the hospital along with Sultan Singh, which circumstance further proves that Sultan Singh was never present on the spot at the time of the accident.

It has further come in the MLRs of Darshan Singh and

Ram Kumar, i.e. Ex.P11 and P10, respectively, that both of them were under the influence of liquor. Thus, when the facts and circumstances of the present case are considered in totality, it becomes clear that the duo suffered injuries due to fall from motorcycle as the driver thereof was under the influence of liquor. This incident was later on projected as a vehicular accident by introducing the alleged offending vehicle.

In these circumstances, the inescapable conclusion is that the the accident has not taken place in the manner projected by the claimants and her claim has rightly been rejected by the learned Tribunal.

In view of the above, no case for interference in the impugned award is made out.

Dismissed.

18.02.2016
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(JITENDRA CHAUHAN)
JUDGE