

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

**FAO No.193 of 2016
Date of decision: 18.02.2016**

Bachni Devi and others

....Appellants

Versus

Dharam Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.S. Budhwar, Advocate
for the appellants.

JITENDRA CHAUHAN J.

The present appeal has been preferred by the appellants/claimants against the impugned award dated 03.09.2015, passed by Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal'), whereby the claim petition filed by the claimants has been dismissed.

Brief facts pertaining to the case are that on 31.01.2013, Balwinder Singh (deceased) along with Avtar Singh and Kulwant Singh had gone to village Hussaini. While returning to his village, Balwinder Singh was riding on his motorcycle bearing No.HR-01U-5131 and the other two persons were

travelling by another motorcycle bearing No.HR-54-A-3605. At about 09:00 p.m., when they reached near Lonton Chungi, Naraingarh, a car bearing registration No.HR-54-A-8699 driven by Dharam Singh in a rash and negligent manner, collided with the motorcycle of Balwinder Singh. As a result thereof, Balwinder Singh sustained multiple injuries on his head and various other parts of the body and he was removed to Civil Hospital, Naraingarh and later was referred to PGI, Chandigarh, where he succumbed to his injuries. The driver of the offending vehicle had only stopped for a while and then he had fled away from the spot.

In this regard, FIR No.32 dated 05.02.2013 under Sections 279 and 304-A IPC in respect of the accident in question, was got registered at Police Station Naraingarh at the instance of Avtar Singh.

Consequently, the appellant/claimants filed a claim petition before the Tribunal.

The claim petition was contested by the respondents. In their joint written statement, respondents No.1 and 2 denied the accident with the car bearing registration No.HR-54-A-8699 and asserted that the same has been falsely involved in the present case.

Respondent No.3 also in its separate written statement pleaded that no accident, as projected, ever took place. The FIR was registered after a delay of five days. It is further pleaded that

the respondent-driver was not holding a valid and effective driving licence at the time of accident.

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 holding that the claimants have failed to prove the fact that the accident took place due to the rash and negligent driving of car bearing No.HR-54-A-8699 by respondent No.1.

Hence, the present appeal.

Learned counsel for the appellants have submitted that the registration of FIR is sufficient to prove the factum of accident, caused due to rash or negligent driving of respondent No.1. There was no delay in lodging the FIR. He further refers to the MLR of Balwinder Singh (since deceased) and states that the Tribunal has erred in dismissing the claim petition of the claimants.

I have heard counsel for the appellants, perused the records but do not find any merit in the appeal.

In the present case, Avtar Singh, PW-2, has been projected as an eye-witness to the accident. Admittedly, Avtar Singh is the brother-in-law (Jija) of Balwinder Singh (since deceased). This witness has stated in his cross-examination that the persons present nearby the place of occurrence had informed the police about the accident. Police had reached the spot after some time. However, the police proceeding in the FIR (Ex.P-1)

shows that on 31.01.2013, a telephonic message was received with regard to receiving the injuries by one person in an accident, but no eye-witness was found present at the place of accident. Further, Avtar Singh-PW2 has admitted in his cross-examination that police first time met him in the PGI, Chandigarh. He had not lodged any report/FIR in Police Post PGI, Chandigarh. After the accident took place, he stayed in PGI for two days, whereas the claimants and other relatives of deceased stayed there upto eleven days. There is nothing on record to prove that as to why the FIR was not got lodged by Avtar Singh-PW2 in the interregnum period.

Keeping in view the above facts and circumstances, the inescapable conclusion is that the accident has not taken place in the manner as projected by the claimants and their claim petition has rightly been dismissed by the learned Tribunal.

For the foregoing reasons, I do not find any error, much less illegality in the impugned award as would call for intervention.

Dismissed.

(JITENDRA CHAUHAN)
JUDGE

18.02.2016

'D. Gulati'