

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4894 of 2016 (O&M)

Date of Decision : 24.08.2016

The New India Assurance Co. Ltd.

....Appellant

Versus

Satish and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Suvir Dewan, Advocate
for the appellant.

Surinder Gupta, J.

This is appeal by New India Assurance Co. Ltd. challenging award dated 03.05.2016 passed by Motor Accident Claims Tribunal, Rohtak (later referred to as 'the Tribunal') awarding compensation of 9,35,000/- to claimants for death of Reena, in a motor vehicle accident on 19.07.2015 with bus bearing registration no. HR-46-B-9797 (later referred to as 'the offending vehicle').

2. Learned counsel for the appellant has argued that Reena has died in a hit and run case and the accident was caused by truck and not by the offending vehicle. Claimant-Satish was falsely introduced as eye-witness of the accident while his name nowhere finds mention in record of the hospital where deceased was taken after the accident. FIR was lodged a day after the accident in collusion with owner and driver of the offending vehicle.

3. The above argument was advanced before the Tribunal but was discarded. As per claimant, the deceased alongwith her husband Satish and daughter Kalph (both claimants) had boarded the offending vehicle at about 08.00 p.m. When they reached Hisar road near Bhiwani T-point, they alighted from the bus and were on the way to board an auto-rickshaw, when driver of the

offending vehicle started the bus in a rash and negligent manner and hit the

deceased and her minor daughter Kalph. Both sustained multiple grievous injuries. The deceased was taken to Post Graduate Institute of Medical Sciences (PGIMS), Rohtak, where she succumbed to injuries on the next day and the matter was reported to the police vide FIR (Ex. P-1).

4. Driver and owner of the offending vehicle in their written statement have admitted the accident but pleaded that it was the deceased, who was at fault as she was talking on mobile phone and came in front of the offending vehicle. Though, the appellant had taken plea of collusion between claimants and respondents no. 3 and 4, no evidence was brought on record to this effect. Mere fact that the matter was reported to the police on next day is no reason to disbelieve the testimony of eye-witness. Driver of the offending vehicle had not dared to step into the witness-box to give his own version and the insurance company has also not summoned him. Claimant-Satish (PW-1) is author of the FIR and had categorically detailed time, number of the offending vehicle and manner in which the accident had taken place. The Tribunal observed that respondents including appellant could not extract anything to doubt presence of claimant-Satish at the spot at the time of alleged accident.

5. No other point has been argued by learned counsel for the appellant.

6. On perusal of award, I find no legal or factual infirmity therein calling for any interference.

7. This appeal has no merit and the same is dismissed.

August 24, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No