

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

FAO-7699-2014 (O&M)
Date of decision: 17.05.2016

Smt. Raj Bala and others

...Appellants

Versus

Sombir and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sumeet Sangwan, Advocate
for the appellants.

Mr. D. K. Prajapati, Advocate for
Mr. R. S. Madan, Advocate
for respondent No.3.

JITENDRA CHAUHAN, J.

CM No.20551-CII of 2014

After hearing the learned counsel for the parties and for the reasons contained in the application, which is duly supported by an affidavit, the same is allowed and delay of 7 days in filing the present appeal is condoned.

Main Case

This appeal has been filed by the claimant-appellants against the impugned award dated 03.04.2014, passed by learned Motor Accidents Claims Tribunal, Rohtak, (for short, 'the Tribunal') vide which the claim petition was dismissed.

The learned counsel for the appellants contends that the learned Tribunal has grossly and arbitrarily decided issue No.1 against the claimants by merely relying upon the statement of PW2-Sumit, maternal uncle of the deceased, Deepak. The learned Tribunal has ignored the statement of PW3-Amarjeet, who was a pillion, wherein he had specifically stated that the alleged accident occurred due to the rash manner of driving of Santro Car bearing registration No.HR-12G-2960, driven by respondent No.1.

On the other hand, the learned counsel appearing for respondent No.3 has vehemently opposed the prayer made by the appellants and stated that PW2-Sumit, who had lodged the FIR qua the accident in question, had not disclosed the registration number of the offending vehicle.

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

In the case in hand, the initial burden to prove that the accident took place due to the rash manner of driving of offending vehicle i.e. Santro Car, by respondent No.1, was upon the claimants. In order to prove their case, the claimants were required to lead cogent and convincing evidence before the Tribunal. The claimants had examined the pillion rider, Amarjeet, who deposed that the accident occurred due to the rash manner of driving of the offending vehicle.

However, in cross-examination of PW2-Sumit, who lodged the FIR, he admitted that he was not an eye-witness to the accident. He further deposed that he disclosed the manner of accident as told by PW3-Amarjeet. There is no mention of the registration number of the offending vehicle in the FIR. Further, PW3-Amarjeet got recorded his statement with the police after 21 days of the accident and he could not explain the delay, and therefore, the learned Tribunal has rightly drawn adverse inference against the appellants. Therefore, no fault can be found with the findings recorded by the learned Tribunal.

Thus, in the light of the above discussion, the instant appeal is hereby dismissed on merits.

17.05.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**