

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

F.A.O No.8565 of 2015 (O&M)

Date of Decision : 12.02.2016

S.S. Malhan

..... Appellant

Versus

Ravinder Kaur and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Vikas Bahl, Sr. Advocate
with Mr. Nitish Garg, Advocate
for the appellant.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This appeal has been filed against the award dated 15.10.2015 passed by the Motor Accident Claims Tribunal, Hoshiarpur.

As per the claim petition, on the fateful day the appellant was driving rashly and negligently his Honda City car bearing registration No.CH-03-Y-7031 and could not control the car and struck it against the scooter of the deceased Charanjit Singh. As a result thereof, he fell down from the scooter and suffered injuries on head and other parts of the body. The accident was witnessed by several persons. Thereafter, the appellant stopped his car and came out but after seeing the condition of the deceased, he fled away from the spot. The deceased was taken to the hospital and

eventually he died after more than 1 month. No case was registered initially but ultimately after almost one month of the accident the FIR was registered. The Tribunal took the income of the deceased as Rs.7000/- p.m. and deducted 1/2 of the income towards personal expenses which comes to Rs.3500/- per month. Ultimately, the Tribunal awarded total compensation of Rs.9,53,226/- (including compensation towards other heads) alongwith interest @ 7.5% per annum.

Learned senior counsel has argued that the very factum of any accident taken place with the car of the appellant has not been proven. As per him, the FIR was lodged after one month and further in the claim petition a case of the car of the appellant having struck against the scooter of the deceased was set out. However, when the witnesses came forward to depose, two eye witnesses AW-1 and AW4 had to admit that in fact the scooter of the deceased had hit another three-wheeler scooter. Further as per him, others fact coupled alongwith delay in the FIR and the fact that there was not even a scratch on the vehicle of the appellant as also the fact that the FIR was ultimately lodged after 3 inquiries of the police, has established that the appellant's vehicle is not involved and completely belied the claim.

In this connection, the Tribunal had noticed that what the eye witnesses had stated was that first of all the vehicle of the appellant hit the scooter of the deceased and thereafter the scooter of the deceased also rammed into an another scooter. The fact that there is delay in the FIR or that in the claim petition the averment regarding the involvement of the second scooter was not made or that the appellant was exonerated by the

police can not displace the eye witnesses' account. It cannot be said that the Tribunal has acted perversely and believed testimony which no reasonable person would believe. It cannot also be lost sight of that the claim petition is to be tried in summary manner under the Motor Vehicles Act and therefore the strict rules of pleadings which would apply to a civil suit cannot be held to be applicable.

Learned Senior Counsel has further argued that the deceased was 65 years of age and since there was no documentary evidence of his earning the Tribunal erred in taking his income as Rs.7000/- per month.

In this connection, it has to be noticed that the claim set up by the claimants was that he was earning lot more in Kuwait but in view of the absence of any documentary evidence the Tribunal took the pay-scale of a labour and took that as the income. I see no fault in this finding also.

Consequently, the appeal is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

February 12, 2016

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**(AJAY TEWARI)
JUDGE**