

In the High Court of Punjab and Haryana at Chandigarh

**F.A.O No. 2330 of 1999
Date of Decision: 22.5.2017**

Kamla Devi and others

.....Appellants

Versus

Amar Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: None for the appellants.

Mr. Suvir Dewan, Advocate
for the Insurance Company.

ANITA CHAUDHRY, J

This appeal is by the claimants aggrieved by the dismissal of the petition filed under Section 166 of the Motor Vehicles Act.

No one had appeared for the appellants though the date was given in the presence of the counsel on 22.2.2017. An opportunity had been given to the appellants to make the submission if any within a week. The judgment was reserved on 11.5.2017, still no one has appeared.

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Copy of the award and grounds of appeal are available.

Radhey Sham was the second driver in a truck bearing registration No. HR-34-1721. The truck was near village Nuniya district Tonk. Another truck bearing registration No. RNA-2085 was following the truck in which Radhey Sham was travelling. The truck which was behind,

was overtaking the truck when the accident occurred and Radhey Sham died

on the spot.

The accident was denied by respondent No. 1. Respondent No. 2 took the plea that the accident occurred on account of negligence of respondent No. 4.

The insurance company took the plea that the deceased was travelling in a vehicle as a gratuitous passenger and they were not liable to pay any compensation.

The Tribunal considered the evidence available on record and gave a finding against the claimants on issue No. 1 and the petition was dismissed. The finding recorded by the Tribunal on issue No. 1 reads as under:-

“10. PW1 Kamla wife of deceased stated that her husband died three years ago. PW2 Krishan Lal has not stated anything about the accident. The counsel for petitioners placed on record copy of FIR Ex. P1 to indicate that the accident took place due to rash and negligent driving of respondent No. 1 and further submitted that since FIR is there so he should be held guilty for the said accident. The counsel for respondents stated that the petitioners have stated this fact in para 23 of the petition that respondent No. 1 was driving his truck in a rash and negligent manner and while overtaking truck No. RNA-2085 both the trucks met with an accident and alleged that the accident took place due to rash and negligent driving of respondent No. 1 and 4 and as such both are jointly responsible for said accident whereas no witness has been produced to say this fact. The best persons were the occupants of both the trucks.”

The above would show that two witnesses were examined by the claimants but none of them was an eye witness. Kamla wife of the deceased was not an eye witness. The Tribunal had noted that Krishal Lal

did not state anything about the accident. The claimants were only relying upon the FIR which was tendered in evidence.

Mere exhibiting the FIR was not enough. The claimants were to prove the negligence and the involvement of the driver. No eye witness was examined. There is no evidence to show the manner in which the accident had occurred. I find no infirmity in the finding recorded by the Tribunal.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

May 22, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No