

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

FAO No. 1296 of 2001 (O&M)
Date of Decision: July 18, 2017

Bhola Singh and another

..Appellant(s)

Versus

Balbir Singh and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ashok Jindal, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for respondent no.3-insurance company.

ANITA CHAUDHRY, J.

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

The record of this file had been burnt in the fire accident which had taken place in the year 2011. Only the copy of the award could be reconstructed. The counsel for the claimants has placed on record copy of the pleadings, copy of evidence, copy of DDR and the death certificate for reconstruction of the record. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever is available on the record.

An accident had taken place on 10.10.1996 at 7:45 AM. Sandeep had just left his house and had travelled few yards from his house when a bus driven by respondent no.1 came from the opposite direction and struck against Sandeep who was driving a cycle. He died on the spot. It was claimed that the bus driver stopped his bus at a distance of 14 Karams and then fled away. The deceased was 15 years old and was a student of 7th Class. It was claimed that he was earning Rs.7,000/- per month and was helping in dairy work.

The accident was denied by the respondents. The Tribunal noticed that no case had been registered by the police and the appellants had given an application to the SDO that they did not want any postmortem to be conducted. That application was reproduced in the judgment. The Tribunal noted that the claimants had admitted that no-one was at fault. The Tribunal also noted that a DDR was entered but it had not been produced by the claimants. The statement of appellant no.1 - Bhola Singh was rejected in view of the facts given in the application moved by him Rs.50,000/- was allowed for no fault liability.

The counsel for the appellants had placed on record the copy of the DDR as well as the evidence that was led before the Tribunal.

I have heard the parties at great length and I find no infirmity in the findings recorded by the Court below. It is clear from the statement of the witness and the contents of the DDR that the

deceased was overtaking a tractor-trolley and had gone in the middle of the road. The offending bus was coming from the opposite direction and that is how the accident occurred. It is for this reason that the claimants did not lodge any FIR nor wanted to get the postmortem conducted. The complainant had given the true version in the DDR. But when he stepped into the witness box and stated that the police had taken his signatures on the blank papers and did not write his statement correctly. The claimants failed to place on record copy of the complaint given to the higher authorities. They did not file criminal complaint. It appears that they had changed the version later to claim compensation. I find no infirmity in the findings recorded by the Tribunal.

The appeal is dismissed.

July 18, 2017

sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No