

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

F.A.O No. 3200 of 2001

Date of decision:- 10.08.2017

Smt. Savita and others

...Appellant

Versus

Vijay Pal and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Parveen Kaushik, Advocate for
Mr. B.S. Rana, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for respondent No. 3.

RITU BAHRI J. (Oral)

The present appeal is against award/order dated 28.03.2001 passed by the learned Motor Accident Claims Tribunal, Gurgaon whereby the claim petition filed by the claimants-appellants has been dismissed.

The facts which are not in dispute are that on 27.07.1999, Rajesh was going to his home village Kathuwas after ploughing his fields with tractor No. HR-36-B-5276 towards Kasola Chownk National Highway No. 8. When he reached near his village, a Tata 407 bearing registration No. HR-38-A-2278 came from Bawal side driven by respondent No. 1 in a rash and negligent manner hit the back side of tractor as a result tractor overturned and Rajesh came underneath the tractor which resulted into his death on the spot. A F.I.R No. 158 dated 27-07-1999 was registered under Sections 279/304-A IPC with Police Station Sadar, Rewari. However, no registration number of the offending vehicle has been mentioned in the F.I.R.

The learned Tribunal dismissed the claim petition filed by the

appellant on the ground that P.W.2 Shiv Lal author of the F.I.R was known to the family of the deceased prior to the accident. Further P.W.1 Savita, widow did not utter even a single word that she came to know about the accident having seen by Shiv Lal. Further in the F.I.R, an untraced report has been filed and thus, it was held to be simple case of hit and run and TATA 407 bearing registration No. HR-38-A-2278 has been involved just to extract compensation.

Learned counsel for the appellant contends that the learned Tribunal has erred in law in dismissing the claim petition of the appellant by relying upon a judgment of Delhi High Court in a case of *National Insurance Company Ltd vs. Smpt Pushpa Rana and othes, 2008(2) TAC 976*.

The above said judgment will not be applicable in this case as in that case, F.I.R, charge sheet was made against driver and there was recovery memo as well and in the present case, the police has filed the untraced report.

In view of the above factual position, order/award dated dated 28.03.2001 passed by the learned Motor Accident Claims Tribunal, Gurgaon does not suffer from any infirmity or misreading of evidence.

The appeal stands dismissed.

August 10, 2017
G Arora

(*RITU BAHRI*)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No