

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1767 of 2002(O&M)

Date of Decision: 02.11.2017

Ashwani Kumar & ors.

... Appellants

Versus

Baldev Singh & anr.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vivek Suri, Advocate,
for the appellants.

Mr. Suman Jain, Advocate,
for respondent No.2.

RAJIV NARAIN RAINA, J.(Oral)

Having heard learned counsel for the parties at length and on being acquainted with the evidence pro and contra and other facets as to whether the owner-cum-driver of the offending vehicle admitted the accident took place on 1995 in paragraph 8 of his written statement or otherwise and the suggestions put to the witness during the cross-examination and particularly of Lalji Dass, an alleged eye-witness, and other all the attending facts and circumstances; and the fact that the Tribunal has assessed the quantum of compensation but has non-suited the claimant on the finding that the accident did not take place with the vehicle in question; and the proximity of the FIR with the accident registered the very next day in police station as a hit and run case, and keeping all this in mind, in my considered view, it would be a wholly futile exercise for this court to judicially review the fragile award of the Motor Accident Claims Tribunal, which has not reasoned out all the issues arising in the case properly, then in the fitness of things, this appeal deserves to be allowed, and the case remanded to the Tribunal for

consideration afresh on the entire length and breadth of the case and for it to return firm and proper findings on the evidence on each facet of the case and issues arising for consideration. It is only then that an appeal to this Court would be meaningful after a fresh determination. In my view, this is the best course to be adopted in the facts of this case and which would best serve the ends of justice.

Accordingly, the award is set aside and the case is remanded without expressing any opinion on the merits of the case to avoid any prejudice to the parties. Fresh award shall be made after affording an opportunity of hearing to both sides. In case the Tribunal is convinced that additional evidence is required to be admitted and witnesses called, it will be free to do so in its wisdom in order to do justice.

Parties are directed to appear before the Motor Accident Claims Tribunal, Ambala, on 20.11.2017.

The appeal is disposed of accordingly. An endeavour will be made by the learned Tribunal to expedite fresh conclusion.

02.11.2017
monika

(RAJIV NARAIN RAINA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>