

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

FAO No.2820 of 2005

Date of Decision.22.11.2017

Gurbax Singh and others

.....Appellants

Vs

Union of India and others

.....Respondents

Present: Mr. N.S. Sodhi, Advocate
for the appellants.

Mr. Alankar Narula, Advocate for
Ms. Rajni Narula, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appellants-claimants are aggrieved against the award passed by the Tribunal whereby the claim petition filed on account of death of deceased namely Kartar Singh, aged 60 years died in a motor accident occurred on 24.4.2003, has been dismissed.

Learned counsel appearing on behalf of the appellants submits that the eye-witness Amar Singh, who was travelling behind the deceased at a distance of about 50 yards had witnessed the accident and noted down the number of the vehicle as 13 Armed 15 INP Div.99-D, 118260, XCL, 1220 and the factum of accident having taken place with military vehicle is also reflected in the post-mortem report but the Tribunal had relied upon the cross-examination of Amar Singh to non-suit the claimants on the ground that the identity of the vehicle had not been proved. An FIR in this regard was also registered but ultimately the military officials managed to get the untraced report. There was no information of holding the enquiry by the

army official and therefore, the statement of eye-witness suffered before

such enquiry officer was not admissible in the evidence. All these facts, if read cumulatively, would have definitely formed an opinion in favour of the claimants for the purpose of arriving at a fair and just compensation.

On the contrary, Mr. Alankar Narula for Ms. Rajni Narula, learned counsel appearing on behalf of the Union of India submitted that no fault can be found with the findings arrived at by the Tribunal as the eye-witness in the cross-examination had unequivocally admitted of not noting down the number and identity of the vehicle, in essence, identity of the vehicle has not been proved. Even the untraced report has not been pursued, therefore, rightly so the claim petition has been dismissed, thus, urges this Court for upholding the award passed by the Tribunal.

I have heard learned counsel for the parties, appraised the paper book and of the view that though Amar Singh, PW-2, examined on behalf of the claimants no doubt given number of the vehicle but in the cross-examination, spilled the beans when to a specific question he stated that **it is correct that I did not note down the name/number of any army vehicle involved in the alleged accident.** For the sake of brevity, cross-examination of the aforementioned witness reads as under:-

“xxxxxxn: I am illiterate. I used to sign in Hindi. Kartar Singh deceased was above 60 years. I do not know about the exact number of daughters of Kartar Singh but he has four sons. He was living with one of his daughter. After 10.00 A.M., I and Kartar Singh was going to deposit the electricity bill. There was difference of 50 yards between me and Kartar Singh. The vehicle who hit the deceased ran away from the spot. I arranged the tempo and took the injured to civil hospital. I sent the message about the accident through a person at the house of Kartar Singh, whose name I do not remember. Our village is at a distance of 2 ½ k.m. from the place of accident.

It took about 2 ½/3 hours in reaching the hospital. I entered the Civil Hospital in the meantime Lakhwinder Singh and Joginder Singh sons of Kartar Singh reached the hospital. I forget the name of the driver. It is correct that I did not note down the name/number of any army vehicle involved in the alleged accident. The driver of the vehicle was a clean shaver. I was at a distance of 50 yards away when I saw the accident. I reported the matter to the police-station. I do not know what action was taken by the police officials in that matter. I remained with the injured for 2/3 days after the accident. He remained unconscious. The tempo was coming on the road, who took the injured to the hospital. The tempo was got empty after unloading the passenger. I do not know the number of the tempo. It is correct that an enquiry was conducted by the army authorities in respect of this accident and I was called there. It is correct that my statement was recorded and I signed the same. It is incorrect to suggest that I did not witness any accident. It is incorrect to suggest that injured was lying on the road and the Army vehicle, who was coming on the road after noticing the injured took him to the hospital on humanitarian grounds. I do not know, if the injured Kartar Singh got admitted in Civil Hospital by Army personnel. I do not know if the relatives of injured were called by the Army personnel after getting telephone number. It is incorrect to suggest that I given a wrong report to the police station, Sadar Gurdaspur. It is incorrect to suggest that I have given a false statement in my affidavit being relative and neighbourer of the injured/deceased Kartar Singh. It is wrong to suggest that I never accompanied the deceased on 24.4.2003 and I have made a false story in order to get claim by his L.Rs.”

Even the post mortem report also did not reveal the identity of the vehicle except mere reference that the accident was occurred by a military vehicle. The appellants-claimants did not summon the driver of the

In the absence of the identity of the vehicle, the rash and negligent driving of the vehicle cannot be attributed. It was a case of hit and run. The claimants should have approached the authorities vesting with the powers conferred under Section 163 of the Motor Vehicles Act to consider the claim for compensation in cases where the accident arisen out of the use of a motor vehicle or motor vehicles the identity whereof cannot be ascertained in spite of reasonable efforts for the purpose as enshrined under Section 161 of the Motor Vehicles Act.

In view of the aforementioned facts and circumstances, the finding arrived at by the Tribunal cannot be faulted with. No ground for interference is made out. The appeal stands dismissed but with the above observations.

(AMIT RAWAL)
JUDGE

November 22, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No