

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

FAO No.428 of 2005

Date of Decision.15.12.2017

Balwinder Kaur and others

.....Appellants

Vs

Arjun Singh and another

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sarju Puri, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for the insurance company.

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AMIT RAWAL J.(ORAL)

The appellants are the claimants, preferred the claim petition on account of unfortunate death of Amrik Singh, who at the time of accident was aged 45 years and was an agriculturist but the aforementioned claim petition has been dismissed on the ground of collusion.

Mr. Sarju Puri, learned counsel appearing on behalf of the appellants submits that the aforementioned accident was witnessed by Rajinder Kumar but the particulars of the tractor trolley were not given in the FIR as well as the name of the driver. However, when he appeared as PW3, stated that after eight months of the accident, identified respondent No.1, driver of the offending tractor when saw him in Kissan Mandi along with tractor trolley. In such type of accidents, such events are some time inevitable and therefore, ought not to have been considered so rigidly to oust the claimants from claiming compensation.

During the course of arguments, he referred the testimony of PW3, thus, urges this Court for setting aside of the award as the claimant was 45 years of age and liable to be granted compensation as per the ratio

2009(6) SCC 121 and subsequently in National Insurance Company Ltd. Vs. Pranay Sethi and another passed in Special Leave Petition (Civil) No.25590 of 2014 on 31.10.2017.

Per contra, Mr. Vinod Gupta representing the insurance company submits that it was a case of hit and run and the tractor-trolley introduced later on, as no challan under Section 173 Cr.P.C. had been filed against the driver of the tractor-trolley, 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 there is no force and merit in the submissions of Mr. Puri, for, PW3 has not been able to give any cogent and justifiable reasons of not giving particulars of the tractor trolley and as well as the driver when he had witnessed the accident on 5.1.2003 at 11 PM. His statement could be believed, had he given the particulars within some reasonable time backed by some logical reasons. The statement of PW3 cannot be believed to be prudent, for, the particulars had been given after a delay of eight months of the accident and in what manner he had given the description also raises a question on identity of the vehicle.

All these facts had been noticed by the Tribunal in extenso. Nothing contrary has been pointed out in order to enable this Court to form a different opinion that what has already been formed by the Tribunal. No ground for interference is made out. The appeal stands dismissed.

(AMIT RAWAL)
JUDGE

December 15, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No