

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

FAO No.911 of 2007

Date of Decision.02.08.2017

Smt. Pinki widow of Surender

.....Appellant

Vs

Dinesh and others and others

.....Respondents

Present: Mr. Sagar Aggarwal, Advocate
for the appellant.

Mr. Ravinder Arora, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appellant-claimant is the legal representative of deceased Surender, who, while travelling in tractor driven by respondent No.1-Dinesh bearing registration No.HR-10F/7870 and owned by Ram Prasad, allegedly died in accident occurred on 25.11.2004.

Mr. Sagar Aggarwal learned counsel appearing on behalf of the appellant submits that the Tribunal dismissed the claim petition on the premise that two versions with regard to involvement of two tractors bearing registration No.HR-10F/7870 and HR-10E/4937 came forward whereas the owner and driver of tractor bearing registration No.HR-10F/7870 were impleaded. No doubt no FIR has been lodged but that could not entail into dismissal of the claim petition as the fact remains that the eye-witness Satbir Singh with regard to nature of the accident resulting into death of the deceased while travelling into the aforementioned tractor had been very coherent and consistent in the statement, therefore, respondent No.3-insurance company is required to indemnify the insured. The Tribunal

neither Dinesh nor Ram Prasad has come forward. The factum of death has been proved through the postmortem report and therefore, the Tribunal ought to have assessed the compensation by fastening the liability on the owner and driver of tractor bearing registration No.HR-10F-7870.

Mr. Ravinder Arora, learned counsel appearing on behalf of the insurance company submits that Umed Singh, uncle of the deceased had also suffered a statement to the police wherein gave the number of the tractor as HR-10E/4937 and in these circumstances, the Tribunal in the absence of direct and cogent evidence regarding the involvement of the alleged tractor dismissed the claim petition. It is a case of apparent collusion because no FIR has been lodged. Had there been actually an accident, FIR would have definitely been lodged. Solitary statement of Satbir would not suffice the requirement of law to establish the involvement of the tractor bearing registration No. HR-10F-7870, thus, urges this Court for upholding the award passed by the Tribunal.

In rebuttal, Mr. Aggarwal submits that no doubt a complaint had been lodged against Dinesh but outcome of the same is unknown.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no ground made out for interference as the award of the Tribunal is perfectly legal and justified. Both the tractors were of different makes as the tractor bearing registration No.HR-10F/7870 is of make “Eicher” and the tractor bearing registration No.HR-10E/4937 is of make “New Holland”. Umed Singh has not been examined by the claimants to establish that he had wrongly made an incorrect statement with regard to involvement of the tractor bearing registration No.HR-10E-4937 in order to rule out the involvement of the aforementioned tractor. Had such an effort

or attempt been made, perhaps the Tribunal would have fixed the liability upon the tractor bearing registration No.HR-10F/7870. Non-lodging of FIR is also one of the factor perhaps that the claimants were afraid of ascertaining of the truth in case the driver and owner of either of the vehicles comes forward.

In such circumstances, in my view, the Tribunal had no material to fasten the liability upon the insurer of the tractor bearing registration No.HR-10F/7870. In the absence of the direct involvement of the aforementioned vehicle, the finding rendered by the Tribunal cannot be interfered with. The award passed by the Tribunal is upheld and the appeal is dismissed.

(AMIT RAWAL)
JUDGE

August 02, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No

