

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

**FAO No.1607 of 2009 (O&M)
Date of Decision: May 17, 2017**

Gurmeet Kaur

..Appellant(s)

Versus

Asha Ram and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Kamaldeep Kaur, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate
for respondent no.3.

ANITA CHAUDHRY, J.

The claimant is aggrieved by the dismissal of her claim petition by the Motor Accident Claims Tribunal, Faridabad.

The record of this file had been burnt in the fire incident which had taken place in the year 2011. The counsel for the insurance company has placed on record the evidence including the statement of Satnam Singh, copy of the MLR and the information sent to the police from Escorts Hospital, Faridabad. The counsels appearing for the parties agreed that the matter can be decided on the basis of whatever is available on the record.

An accident had occurred on 04.03.2007. The claimant had pleaded that Gurnam Singh was trying to cross the road when an offending car driven by respondent no.1 bearing registration no.HR51S-4277 came at a high speed and struck against Gurnam who fell down on the road and received serious injuries. He died two days later. The First Information Report was lodged the next day i.e. on 5.03.2007 at 4:25 PM.

The insurance company took the plea that the car was not involved in the accident and the facts had been twisted and Satnam Singh was not an eyewitness and false evidence had been procured to grab compensation.

The Tribunal noted variance in the claim and the record of the Escorts Hospital, Faridabad. In the MLR the presence of one Sukhwinder Singh was recorded. The details of the vehicle which had caused the accident were also mentioned. In the MLR there is a reference to a Maruti car bearing registration No.HR30C-7751. The Medical Officer had sent Ruka to the police wherein the time of accident is also mentioned as 11:02 AM on 04.03.2007 and it also referred to the facts that the accident had occurred 15 – 20 minutes ago. It concluded that the FIR had been lodged after a delay and enough time had been used to plant another vehicle and the statement of Satnam Singh real brother of the deceased was rejected and the claim petition was dismissed.

It would be relevant to quote para nos.12 & 13 of the order, which reads as under:-

“12. I have given due consideration to the arguments advanced by counsel for the petitioner and counsel for the insurance company and has meticulously scrutinize the evidence of eye witness PW3 Satnam Singh. In this case Gurnam Singh was admitted in Escorts Hospital by Satnam Singh. Particulars of deceased and vehicle with which accident took place was got written by him in the hospital and even car number was mentioned in the MLR Ex.P3 and in the MLR Ex.P3 number of car is shown as HR-30C-7751 which is Maruti 800 car and Gurnam Singh has been shown to be brought by his brother and name of brother has been shown as Sukhwinder Singh. There cannot be such a mistake on the part of doctor while mentioning number of vehicle as HR-30-C-7751 in place of HR-51-S-4277 the number mentioned in the FIR Ex.P1. MLR was conducted at 11:02 AM on 04.03.2007 at the earlier opportunity whereas FIR was reported on 05.03.2007 at 4:25 PM giving enough time for planting a false vehicle in the accident to get claim from insurance company.

13. Even version of PW3, who is stated to be eye witness, is not consistent because in the FIR which was lodged by him on 5.3.2007 he has mentioned car number as HR-51S-4277 and driver of the vehicle is mentioned as unknown whereas when he was cross examined he admitted that he knew Asha Ram driver and he mentioned the name of Asha Ram in the FIR. Moreover, he caught the driver on the spot. So, when he had caught Asha Ram on the spot on 4.3.2007 then why he did not mention his name in the FIR which was

lodged after one day and he has mentioned the name of driver as unknown. Also he has stated that he had handed over driver to police personnel as ASI Dharambir had reached in the hospital. But from the contents of FIR it becomes clear that the driver of the car fled away from the spot after causing the accident alongwith the car and he lifted his brother from the spot and took him to Escorts Medical Centre, Faridabad and this statement as recorded by ASI while he was returning from investigation of FIR No.40 of 2007, under Section 379 IPC, police station NIT No.1 when complainant Satnam Singh met him and he got this statement recorded. So all these facts clearly shows that name of the driver as well as number of vehicle showing vehicle No.HR-51S-4277 which is Accent car has been falsely incorporated in petition. Moreover in the FIR it is nowhere mentioned that at the time of lodging of FIR accused i.e. respondent no.1 was handed over by him to the police.”

I have heard the counsel for the appellant at great length and have gone through the record made available by the insurance company and I find no merit in the appeal. The person who had taken Gurnam Singh to the hospital was Sukhwinder Singh. The make of the car and the registration number of the vehicle were mentioned in the MLR. It was also mentioned that the accident had taken place 15 – 20 minutes earlier. On the basis of that information Ruka was sent to the police. No FIR was lodged that night. Twenty four hours later, the FIR was lodged by the brother and a completely different vehicle

bearing a different registration number which was not even similar to the number given in the MLR was stated to be involved. The Tribunal had dealt in detail the evidence and had found that a vehicle had been introduced and rightly so. There is no reason to take a different view. The involvement of the vehicle had not been proved.

The petition was rightly dismissed. There is no merit in the appeal and is dismissed.

(ANITA CHAUDHRY)
JUDGE

May 17, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No