

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

FAO No. 2913 of 2012

DATE OF DECISION : 31.10.2017

Sadhu Singh and another

.... APPELLANTS

Versus

Manjit Singh alias Bittu and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. H.S. Tuli, Advocate, for
Mr. S.S. Rangi, Advocate,
for the appellants.

Mr. Kulwant Singh, Advocate,
for respondents No.1 and 3.

Mr. Anshul Gupta, Advocate,
for respondent No.2.

* * *

AVNEESH JHINGAN, J. (Oral)

The unfortunate parents who lost their son Avtar Singh in a motor vehicular accident have filed this appeal against the award dated 08.12.2011 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (for short, 'the Tribunal'), dismissing their claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The issue involved in the present appeal is whether the claimants had discharged their onus to prove involvement of the offending vehicle in the accident.

I have heard learned counsel for the parties and perused the paper-book.

Learned counsel for the appellants argued that Pardeep Kumar, an eye witness to the accident, appeared before the Tribunal as PW.4. But his deposition was not found worth reliance by the Tribunal as he had not given the registration number of the offending vehicle in the FIR. He submits that the Tribunal was influenced by the fact that Sukhwinder Singh Cheema, another eye witness, was not examined. His main plea is that since the broken pieces of number plate of the vehicle were recovered by the police from the spot, as is evident from the supplementary statement of PW.4 Parveen Kumar (Mark P-5), therefore, involvement of the offending vehicle had been proved. He further submits that the case can be given a re-look if this evidence of broken pieces of number plate is still available, which was not considered by the Tribunal.

Learned counsel for respondents No.1 and 3 argued that the best witness available in this case was Sukhwinder Singh Cheema, but he never stepped into the witness box. He further argued that the pieces of number plate collected from the spot do not show the registration number of the vehicle.

So far as Sukhwinder Singh Cheema is concerned, it has been recorded by the Tribunal that he was known to respondent No.1. It can be the reason that he did not appear in the witness box. It appears that the Tribunal has not considered the recovery of broken pieces of number plate

of the car from the place of accident. The only objection of learned counsel for the respondents is that these broken pieces do not show the registration number of the car.

Without expressing any opinion on the merits of the case, the matter is remitted back to the Tribunal to consider the effect of recovery of the broken pieces of the number plate, and the fact that if these pieces joined together show the registration number of the alleged offending vehicle or not.

The remand is subject to the condition that the case property of broken pieces of number plate is still available.

The parties are directed to appear before the Tribunal on December 22, 2017.

The appeal is disposed of accordingly.

October 31, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No