

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

FAO No. 3481 of 2012 (O&M)
Date of Decision: November 06, 2017

Nirmala Devi and others

..Appellant(s)

Versus

Satyawan and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Munfaid Khan, Advocate
for the appellants.

Mr. Abhinandan Pandhi, Advocate for
Mr. Manjari Nehru Kaul, Advocate
for respondent no.3-insurance company.

ANITA CHAUDHRY, J.

This is the claimants' appeal aggrieved by the dismissal of the claim petition vide order dated 05.03.2012, passed by the Motor Accident Claims Tribunal, Hisar (here-in-after referred to as the Tribunal).

It is necessary to detail the facts first. Ram Niwas was going from his village Gangakheri to meet his maternal uncle. When he was near the canal, the offending vehicle driven by respondent no.1 came and hit him. He suffered multiple injuries and a head injury. He was taken to a hospital at Barwala by Vicky son of Tek Ram. Subsequently, he was shifted to Sarvodya Hospital, Hisar and he died

two days later. The FIR was registered on the statement made by Naresh brother of the deceased. He did not give the details of the vehicle involved nor named the driver. The FIR was against a unknown person and unknown vehicle. A claim petition was filed alleging that respondent no.1 was driving the offending vehicle and the vehicle was owned by respondent no.2.

To prove the case the claimants examined Naresh who in the cross-examination demolished his own statement made in examination-in-chief. He stated that he had no knowledge about the accident and when he reached the hospital, Vicky and his uncle were present and Vicky had told him that the accident had occurred and Ram Niwas was not in a position to say anything. Naresh admitted that the driver against whom the claim petition had been filed was of their own village. He stated that the police had given them the details of the vehicle and the name of the driver.

The claimants failed to examine Vicky who was supposedly the eye-witness.

The Tribunal recorded a finding that it was a case of collusion and some-one who was known to the family was named in order to extract compensation from the insurance company and there was no eye-witness account and merely because the driver was facing trial, was not sufficient to allow the claim.

I have heard counsel of both the parties at length and I find no reason to take a different view. The claimants had failed to examine

any eyewitness who could depose the manner of the accident or involvement of the driver. The FIR was against a unknown vehicle and it is a clear case where the vehicle has been introduced subsequently.

The appeal is dismissed as it lacks merit.

(ANITA CHAUDHRY)
JUDGE

November 06, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No