

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

**FAO No. 3528 of 2012 (O&M)
Date of Decision: 13.02.2017**

Gurinder Singh @ Gurvinder Singh

... Appellant

vs.

Amarjit Singh and others

... Respondents

and

FAO No. 3529 of 2012 (O&M)

Balwinder Kaur & Anr.

... Appellants

vs.

Amarjit Singh and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. J.S. Cooner, Advocate
for the appellants.**

**Mr. Virender Kumar, Advocate
for respondents No.1 to 3.**

**Ms. Vandana Malhotra, Advocate
for respondent No.4.**

ANITA CHAUDHRY, J.

The appellant-claimants have filed the instant appeals questioning the legality and propriety of the award dated 15.03.2012 passed by the Motor Accident Claims Tribunal, Ambala(for brevity, the Tribunal) dismissing the claim petition filed by the appellants seeking compensation for the injuries and the death of Jaspal @ Yashpal respectively.

Since a challenge has been laid to the common award,

both the appeals are being disposed of by this order passed in FAO No. 3528 of 2012.

The facts of the case are that the appellant Gurinder Singh @ Gurvinder filed a claim petition seeking compensation on account of injuries received by him, whereas appellants Balwinder Kaur and Gurmukh Singh, parents of deceased Jaspal @ Yashpal filed a separate petition and claimed compensation on account of death of their son. It was claimed that the accident took place on 16.06.2010 when Gurinder Singh @ Gurvinder Singh along with Jaspal @ Yashpal @ Kala was going towards village Lakhnaura on a motor cycle. It was averred that the accident had occurred due to rash and negligent driving of tractor-trolley No. HR04B-7993 driven by respondent No.1, as a result of which the appellant sustained injuries while Jaspal succumbed to the injuries.

The driver and owners of the vehicle i.e. respondents No.1 to 3 disputed the accident and it was averred that the accident had taken place due to rash and driving of the motor cycle and respondent No.1 had been falsely implicated in the case.

The insurance company had pleaded collusion between the claimant and respondents No.1 to 3 and claimed that the FIR was manipulated and no accident involving the tractor trolley insured with it, had taken place.

The learned Tribunal vide award dated 15.03.2012 held that the appellant had failed to prove the accident and dismissed the claim petition.

I have heard learned counsel for the parties and have perused the records carefully.

The submission of learned counsel for the appellants was that the Tribunal had gone wrong in holding that the appellants had failed to prove the accident, whereas there was ample evidence on record to prove the accident. Referring to the statement of PW6 Baljit Singh, author of the FIR, it was submitted that pendency of a criminal case against respondent No.1 was itself sufficient to draw inference that the accident had taken place.

In the instant case, the accident had taken place on 16.06.2010 at 7:30 p.m., whereas the FIR had been lodged with delay on 17.06.2010 at 10:20 a.m. by Baljit Singh PW6. He claimed that he was following the motor cycle driven by Gurinder Singh and Jaspal was a pillion rider. They were on extreme left side of the road. In the meanwhile, he noticed respondent No.1 driving the tractor-trolley in a rash and negligent manner and causing accident with the motor cycle of Gurinder Singh, as a result of which both(Gurinder Singh and Jaspal Singh) fell down and sustained injuries. Respondent No.1 disclosed his particulars and later fled from the spot. He called the family members and shifted the injured to the General Hospital, Naraingarh, but considering their serious condition, they were referred to PGI Chandigarh and on his statement, FIR Ex.P45 was registered.

He was the star witness of the claimants. Admittedly, he was a relative of the appellants. Appellant Gurinder was his sister's son while Jaspal was son of his maternal uncle. Though, he claimed

that he was present at the time of accident, but he admitted that he did not accompany the injured to the hospital and showed his ignorance about the name of the person who had shifted the injured to the hospital. He kept quiet for a day and got the FIR lodged next day. He did not accompany the injured to the hospital and took no steps to inform the police about the accident immediately after its occurrence.

The appellant Gurinder Singh had stepped in the witness box as PW2. He deposed the manner in which the accident had taken place and claimed that it was on account of rash and negligent driving of respondent No.1. He claimed that he had noted the registration number of the vehicle as HR04B-7993 and respondent No.1 stopped there and disclosed his particulars. He claimed that they were shifted to General Hospital, Naraingarh by Baljit Singh, from where they were referred to PGI Chandigarh. His statement was found inconsistent to the version given by Baljit regarding shifting the patient to the hospital. Even otherwise, he admitted that he became unconscious after the accident. He claimed that he had noted the registration number of the tractor-trolley before the accident, which is not natural. His statement was admittedly recorded after 10/12 days of the accident and it is difficult to believe that a person with critical condition and who suffered memory loss could remember the registration number of the vehicle.

Keeping in view the unnatural and unusual conduct, presence of PW Baljit at the spot was doubted and the Tribunal had rightly disbelieved both of them to conclude that the accident had not

occurred in the manner as deposed by them and it was a hit and run case. The fact germane to the issue was that the accident was not proved, which is a sine quo non for awarding compensation. The findings are based on the evidence adduced on record. No ground for interference is made out. Both the appeals are dismissed.

13.02.2017	(ANITA CHAUDHRY)
Jiten	JUDGE
Whether speaking/ reasoned	Yes/ No
Whether reportable	Yes/ No