

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

FAO No. 5738 of 2012 (O&M)
Date of Decision: December 18, 2017

Kamla and others

...Appellants

Versus

Naresh Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Chand Ram Olla, Advocate
for the appellant.

Mr. Sanjeev Kodan, Advocate
for respondent no.3.

ANITA CHAUDHRY, J.

Records have been received.

This is the claimants' appeal dis-satisfied with the dismissal of their claim petition by the Motor Accident Claims Tribunal, Hisar (here-in-after referred to as the Tribunal).

On the ill-fated day, Baljeet Singh was returning from the fields on a motorcycle. At about 10:30/11:00 PM, he reached Badiya Jattan-Kanwari road where a Alto car bearing registration No.HR-20N-3513 driven by respondent no.1 came in a rash and negligent manner and hit the motorcycle and he fell down and died. An FIR was lodged on 08.06.2010 and details of the offending vehicle were provided.

The Tribunal disbelieved the statement of Shamsheer who was supposedly an eyewitness and observed that the incident was reported to the police the same night by Sant Lal and it recorded what had actually occurred. It also noted that the brother of the deceased had approached the Sub-Divisional Magistrate with a complaint that his brother had died in an accident by unknown vehicle and inquiry should be conducted and the police should be asked to further investigate the case. The Tribunal rejected the argument of the claimants and held that mere registration of the FIR or the driver facing trial was not enough. It held that the vehicle had been introduced and the initial statement was made by cousin of the deceased who had stated that no-one was involved and it was sheer chance that the accident had occurred.

The submission on behalf of the appellants is that the claim petition should not have been dismissed merely on account of delay in lodging the FIR and the driver was facing trial and the police after thoroughly carrying out their investigation had challaned the driver and a strict view has been taken and plausible and genuine reasons had been given by the author of the FIR for the delay.

The submission on the other hand is that the accident had taken place on 24.05.2010 and the FIR has been lodged on 08.06.2010 and a vehicle has been introduced and the witness was procured and the Tribunal had rightly rejected the evidence. It was contended that a DD entry was made which records the fact that the motorcycle had slipped on the stones and the family did not know the details of the offending

vehicle even till 04.06.2010 as the brother of the deceased had given a complaint to the SDM and had the eyewitness been present, he would have taken the injured to the hospital or would have lodged a report. It was urged that the person who had made a statement to the police the same night was also of the same village and the true version has come out in the first statement Ex. R1 made by Sant Lal son of Roop Chand.

The first version is recorded in the police records the same night on a statement given by Sant Lal. He mentions the fact that the motorcycle of the deceased had slipped over the stones. He does not refer to involvement of any vehicle. After 10 days of the accident, the brother of the deceased had approached the SDM with a complaint that a unknown vehicle had caused the accident and action should be taken against the driver and owner of the unknown vehicle. That application had been produced in evidence by the insurance company. It is subsequently that Shamsheer appears and gives a version and speaks about the vehicle involved. His statement has been rejected by the Tribunal and rightly so. He has been introduced.

The counsel for the appellant had also urged that the driver had admitted the accident. This again shows that there was collusion. I find no illegality in the judgment of the Tribunal. The findings are affirmed and the appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

December 18, 2017

sunil

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No