

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

FAO No. 632 of 2012

DATE OF DECISION : 31.10.2017

Santosh and others

.... APPELLANTS

Versus

Balkar Singh and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Dheeraj Narula, Advocate,
for the appellants.

None for the respondents.

* * *

AVNEESH JHINGAN, J. (Oral)

The present appeal has been filed against the award dated 30.11.2011 passed by the Motor Accident Claims Tribunal, Sirsa (for short 'the Tribunal').

Mahavir Singh lost his life in an alleged motor vehicular accident, which took place on 21.01.2008. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by widow and two minor children of the deceased. The same was dismissed as the Tribunal was not satisfied that the alleged offending vehicle, i.e. truck bearing registration No. RJ-13G-5805, was involved in the accident and

further that the accident took place due to rash and negligent driving of the driver of the offending vehicle.

The claimants alleged that there was an eye witness to the accident. But perusal of record shows that he was not examined.

Learned counsel for the appellants vehemently argued the matter. On realising that he is not able to substantiate his arguments, he raised an alternative issue submitting that in the FIR, which was registered on the day of the accident itself, registration number of the offending vehicle was mentioned. He further contended that in pursuance of the FIR, charge sheet was presented in the court against driver of the vehicle, this itself is a prima facie proof of involvement of the offending vehicle in the accident. With these submissions, he restricted his arguments that atleast, no fault liability under Section 140 of the Act should have been awarded.

The arguments raised by learned counsel for the appellants deserve acceptance. The claimants might have failed to establish the rash and negligent driving and their withholding of the eye witness may raise certain presumptions against them, but prima facie it is proved that the offending vehicle was involved in the accident.

Keeping in view the aforesaid fact, the claimants are found entitled to 'no fault liability', i.e. a sum of ₹ 50,000/-, along with interest at the rate of 6% per annum from the date of filing of the claim petition till realisation of the amount. The respondents shall be jointly and severally

liable to pay the aforesaid amount.

The appeal is party allowed in the aforesaid terms.

October 31, 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No