

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

449

FAO No.910 of 2012

Decided on : 11.10.2017

Sonu @ Soni

... Appellant

Versus

Sanjay and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present : Mr.Anil Ghanghas, Advocate
for the appellant.

None for respondents No.1 to 3.

Mr.Neeraj Khanna, Advocate
for respondent No.4- Insurance Company.

Avneesh Jhingan, J. (Oral)

Present appeal has been filed against the award dated 29.09.2011 passed by the Motor Accidents Claims Tribunal, Bhiwani (for short 'the Tribunal').

2. The claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') was dismissed by the Tribunal on the ground that the claimant had failed to prove the involvement of the vehicle in the accident.

3. Bare facts necessary for adjudication of the present appeal are that Sonu @ Soni, 17 years of age, suffered injuries on 28.12.2009 in a motor vehicular accident. She along with her cousin namely Surender was going to the fields on foot, and she was hit by a car bearing registration No.HR-35D-6899. The said car was being driven

in a rash and negligent manner. She was admitted in govt. hospital, Bhiwani as well as Ranbir Hospital. FIR was lodged on 01.01.2010 at Police Station Laharu, District Bhiwani.

4. The claim petition was moved under Section 166 of the Act. The same was dismissed by the Tribunal as the claimant failed to prove involvement of the said vehicle.

5. Aggrieved of the said award, the present appeal has been filed.

6. I have heard learned counsel for the parties, perused the paper-book and the lower court record.

7. Learned counsel for the appellant contended that the Tribunal has not appreciated the deposition of the eye witness, Surender. He further argued that mere delay in lodging the FIR should not be fatal for the claim petition. He further contended that mechanical report, Ex.P-1 was filed before the Tribunal. The same has not been considered. Absence of signatures of the eye witness Surender on MLR will not be relevant for proving involvement of the vehicle in the accident.

8. Learned counsel for the Insurance Company argued that the claimant had miserably failed to prove the involvement of the vehicle, therefore the Tribunal has rightly dismissed the claim petition.

9. Without expressing any opinion on the merits of the case, it would be appropriate if the award dated 29.09.2011 is set aside and the

matter is remanded back to the Tribunal to decide the claim petition afresh.

10. The Tribunal while deciding the claim petition would consider all the evidence and materials produced before it. The Tribunal would grant two effective opportunities to both the parties to produce evidence/witness(es) in support of their case. Since the accident is of the year 2009, it would be desirable if the petition is decided expeditiously.

11. Parties are directed to appear before the Tribunal on 23.11.2017.

[Avneesh Jhingan]
Judge

11.10.2017
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No