

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 2353 of 2013

Date of Decision: 13.12.2017

Sadhna and another

.....Appellants

Versus

Harinder Chopra

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Vivek Sharma, Advocate
for the appellants.

Mr. J.S.Lalli, Advocate
for the respondent.

ANITA CHAUDHRY, J

This is the claimants' appeal against the dismissal of their claim petition.

The record has been received.

I have heard both the sides at great length.

A claim petition was filed by the widow, the child and the mother of Gopal Dass. He met with an accident on 25.4.2011 at 8.00 P.M. The deceased was trying to cross the road near Old Courts Chowk when a Royal Enfield motor cycle bearing registration No. PB-10-BS-5810 appeared on the scene. It was claimed that the deceased tried to save himself but the motor cycle was being driven rashly, negligently and at a high speed. It hit the deceased and the motor cyclist fled away under the cover of darkness. The injured was shifted to the hospital but he died on 6.5.2011.

No FIR was registered but a DDR was entered on the statement

of Prem Chand who appeared in the witness box as PW-3. The DDR was
Gurpreet Singh Bhatia
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made on 7.5.2011 wherein it was disclosed that when Gopal Dass was trying to cross the road, suddenly a motor cycle appeared from behind and he was startled and he backed and fell down. In the first version given to the police, it was mentioned that no one was involved. The details of the motor cycle were not mentioned though the DDR was entered after 15 days of the accident.

A claim petition was filed and the case set-up by the claimants was that Madan Lal PW-4 was a witness to the incident. The Tribunal disbelieved his statement and also the fact that Gopal Dass had been hit by any vehicle as in the earlier version it had not been stated that Gopal Dass had been struck. The claim petition was dismissed. It would be relevant to reproduce paras 11 and 12 which read as under:-

“11. The only other evidence regarding the accident is the DDR, a copy of which has been proved on file as Ex. P2. The English translation of the relevant extract thereof is being reproduced below for facilitating the proper understanding of the matter:-

“On 25.4.2011, my brother was trying to cross the road near the old court chowk. From the court side some unidentified vehicle came. In order to save himself, my brother turned back with a start. But, suddenly his feet slipped and he fell down on the road. Due to the said fall, he received a head injury. He was then hospitalized at DMC and Hospital, Ludhiana”

12. From the above said statement also it is obvious that the deceased started crossing the road without bothering to know that the vehicle was just near him. It is also revealed that the driver of the said vehicle had no time to apply brakes. From the above quoted version it is also obvious that the vehicle in question i.e. the offending motorcycle had not even hit the

deceased. From the above quoted version it is also evident that the deceased had not fallen down after being hit by the motorcycle in question. Thus, from the above extracted version of Ex. P2 also it is obvious that the accident had not occurred on account of any negligence or rashness attributable to the respondent.”

I have heard the submissions made on behalf of the appellants and I am unable to agree. The incident is stated to have taken place on 25.4.2011 at about 8.00 P.M. Had Madan Lal been present at the spot, he would have taken the injured to the hospital. It is a clear case where the witness has been introduced. Even by the time the DDR was entered after the death of Gopal Dass there is no reference to the fact that Gopal Dass had been hit by any vehicle. If Gopal Dass had been struck by a vehicle the history would have been given to the medical officers and *ruqa* would have been sent to the police station. The witness has been introduced and the Tribunal had rightly dismissed the petition. There is no reason to take a different view.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

December 13, 2017

Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No