

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 281 of 2013 (O&M)

Date of Decision: 11.7.2017

Geeta alias Geeta Rani and others

.....Appellants

Versus

Jaswant Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Jagjeet Beniwal, Advocate
for the appellants.

None for the respondents.

ANITA CHAUDHRY, J

This is the claimants' appeal aggrieved by the dismissal of the claim petition.

Joginder Singh met with an accident on 21.10.2011 at 9.30 A.M. He was going on a motor cycle and was hit by a car driven by respondent No. 1. The accident was stated to have been witnessed by Jaibir, who took him to the hospital at Hisar in an ambulance. The FIR was lodged the next day on the statement of Jaibir.

The claim was resisted by the respondents and they denied their involvement. The insurance company also disputed its liability and pleaded that there was collusion.

The Tribunal noted that there was delay in the registration of the FIR and there was no eye witness and it was a case of hit and run. It noted that the injured had been first taken to Ranbir Hospital at Bhiwani from where he was referred to Sarvodaya Multi Speciality Hospital, Hisar

and this fact had been concealed by the claimants. It noted that no *ruqa* was

sent from Hisar and there was no evidence to corroborate that *ruqa* was sent. It also noted that in the records of the hospital it was Mahabir who had admitted the injured in the hospital and the FIR was lodged after a delay and the intervening period was used to introduce a vehicle.

The Tribunal dismissed the claim petition. Aggrieved by the same this appeal by the claimants.

Counsel for the appellants has referred to '*Sudama Devi and others versus Kewal Ram and others Vol. XCLIX (2008-1) 444*', '*Girdhari Lal versus Radhey Shyam and others 1993(2) PLR 109*' and '*Parmeshwari versus Amir Chand and others AIR 2011 Supreme Court 1504*' and urges that the Tribunal should have taken a holistic view in the matter and strict proof of accident was not required and the claimants were to merely establish their case on the touchstone of preponderance of probabilities and the claim should not have been declined. It was urged that when the case was registered against the driver, he did not make any complaint to the higher authorities.

The record had been received.

On a query, counsel for the appellants states that he is not aware of the fate of the trial. The Reader of the Court was asked to check the fate of the case. It is found from the District Court Website that the trial had ended in acquittal on 12.2.2014. Copy of the judgment dated 12.2.2014 passed in FIR No. 182 dated 22.1.2010 under Section 279/304-A, Police Station Bawani Khera has been downloaded from the District Court website and is taken on record. Jaswant Singh respondent No. 1 was acquitted as the only eye witness namely Jaibir, brother of the deceased, failed to support the

The accident took place on 21.10.2011 around 9.30 A.M. The FIR was lodged the next day by Jaibir, brother of the deceased. According to him he was returning from Bawani Khera where he had gone to meet his grandson and had witnessed the occurrence. He had stated that he had taken his brother to the hospital after arranging an ambulance. The Tribunal had noted that the injured had been taken to a hospital in Bhiwani where first aid was given and he was referred to Sarvodaya Multi Speciality Hospital, Hisar. The injured was brought to Sarvodaya Multi Speciality Hospital not by Jaibir but by Mahabir Singh who was mentioned as his brother. Mahabir Singh was not examined. The record of Ranbir Hospital, Bhiwani where the injured was first taken, was not placed on record. The reasons are obvious. The presence of Jaibir would not be recorded there. The Tribunal had rightly doubted the story set-up by Jaibir. He was not present at the spot and that is the reason why his presence in the hospital records is not noted. It was a case of hit and run and the FIR has been lodged the next day and the vehicle has been introduced. There is no reason to differ with the view taken by the Court below.

None of the authorities referred to by the appellants are applicable and each case is distinguishable on facts.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

July 11, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes