

In the High Court of Punjab and Haryana at Chandigarh

**F.A.O No. 3274 of 2013
Date of Decision: 16.3.2017**

Guddi and another

.....Appellants

Versus

Sher Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sandeep Goyal, Advocate
for the appellants.

Mr. R.S.Mamli, Advocate
for respondent No. 1.

Mr. Sandeep Suri, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J

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

The facts of the case would be essential. Sandeep along with Jitender Kumar were going on a motor cycle from Ambala on 10.7.2011. They had reached near village Bhil Chappar on Sadhora road, when the motor cycle struck into a bullock cart. Sandeep and Jitender fell on the road and suffered multiple injuries. They were declared dead by the doctors at the time of admission.

The appellants are the parents of Sandeep. The claim petition was filed under Section 163-A of the Motor Vehicles Act. I find that issue No.1 was wrongly framed. There was no plea of negligence. It appears that

findings on issue No. 1 to 8 show that the Tribunal was conscious of the fact that the petition had been filed under Section 163-A of the Motor Vehicles Act and therefore it was considering the fact that the death had taken place while the vehicle was in use. The Tribunal noted that the claimants had led no evidence to show how the accident had occurred and whether it occurred while the motor cycle was proceeding on the road as was alleged. It noted that the claimants had only examined the mother of the deceased who was not present at the time of the accident. Besides copy of the DDR had been tendered in evidence. The claimants had failed to examine the person who had lodged the DDR.

The submission on behalf of the claimants was that the DDR had been tendered in evidence which discloses the manner in which the accident had occurred and it is clear therefrom that the accident occurred while the motor cycle was in use and the Court should have awarded compensation.

The submission on the other hand was that the pleadings or the documents are not enough and the claimants were expected to examine the person who was accompanying the deceased and the DDR was tendered in evidence which cannot be taken as substantive evidence to prove that the accident occurred in a particular manner. It was urged that the owner was not examined nor the persons who shifted the injured to the hospital and Jitender was accompanying Sandeep and was the son of the owner.

No evidence was led by the claimants to prove the manner in which the accident had taken place. Mere tendering the DDR in evidence was not enough.

I find no infirmity in the findings recorded by the Tribunal

below. The findings are affirmed.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

March 16, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No