

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 1514 of 2015 (O&M)
Date of Decision: November 15, 2017

United India Insurance Co. Ltd.

...Appellant

Versus

Virender Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Harsh Aggarwal, Advocate
for the appellant.

None for LR's of respondent no.1.

Respondents no.2 & 3 *ex parte*.

ANITA CHAUDHRY, J.

Record of the Tribunal has been received.

This appeal is by the insurance company disputing the award dated 03.11.2014, passed by the Motor Accident Claims Tribunal, Yamuna Nagar (here-in-after referred to as the Tribunal) on the plea that the vehicle had been planted and the witnesses were introduced and evidence has been ignored by the Tribunal.

Notice was given to respondents. No-one has appeared.

Respondent no.1 had died. His LR's were impleaded, they too failed to appear.

The submission on behalf of the appellant-insurance company is that as per the claimants, Rajesh Kumar deceased was going on foot and was crossing the road when he was hit by a vehicle and as per their version, Mayank Sharma had chased the offending vehicle for some distance and had noted the details but the driver managed to flee. It was urged that the FIR was registered on the same day but it was against a unknown vehicle and unknown person and the Tribunal allowed the claim filed by the father who was not even dependant upon the deceased and the Tribunal had gone wrong in accepting the statement of the witnesses and the cross-examination of Mayank completely demolishes his case. The counsel had referred extensively to the evidence.

A reading of the FIR shows that Harsh Kumar had lodged the FIR. He had stated that he had received a telephone call that his brother had met with an accident near the rice sheller and he visited the spot and found his brother in a injured state and he hired a vehicle and took his brother to Jindal Hospital, Jagadhri and an unknown vehicle had caused the accident. Harsh Kumar in his statement in the Court had stated that he could not give the name of the person who had called him and he had reached the spot after 20 – 25 minutes. He stated that after visiting the hospital, he returned to the site and met Mayank who gave him the details of the offending vehicle. He stated that he did not go back to the police to give the details of the vehicle.

The statement of Mayank makes a interesting reading. He stated that he had come for work and was near the rice sheller when he saw a Tata Sumo hitting a person who was crossing the road and he chased the Tata Sumo on his motorcycle and he had made a statement to the police the same day. He stated that later he came to know the name of the person who had died. In the cross-examination, he stated that there are no shops near the rice sheller and he did not even know whether the rice sheller was operating. He stated that he met the police near the bus stand and his statement was recorded. The record was shown to him and he stated that his statement was not in the case file. He stated that his statement could be in the police file. He admitted that he was not a summoned witness and he had not called the police nor had taken the injured to the hospital.

According to Mayank, he did not know the family. He did not stop on the way to help the injured nor shifted him to the hospital. He did not even go to the police though he claimed that he had chased the driver. Had he chased the driver and noted the details of the vehicle, he would have easily reported the matter to the police as the police station was just a kilometer away. It appears that the witness has been introduced, who has given a false statement. The claimants could not show that Mayank was a witness to the incident. The mere fact that the police had later filed the challan, was not enough. It has not been shown as to who made a supplementary statement as Mayank had categorically stated that his statement was not on the record. Had the

statement been recorded, the claimants would have produced the same.

The Tribunal had gone wrong in relying upon the statement of Mayank.

Even on the compensation, the Tribunal had gone wrong.

The father was the claimant. He was not dependent on the son who was just 21 years old. A wrong multiplier had also been applied but that question need not be gone into as the claim fails on issue no.1. The finding recorded by the Tribunal on issue no.1 is set aside and the claim petition is dismissed.

The appeal is allowed.

(ANITA CHAUDHRY)
JUDGE

November 15, 2017

sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No