

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**FAO No. 850 of 2013 (O&M)
Date of Decision: 20.11.2017**

Santosh & Ors.

... Appellants

vs.

Hoshiar Singh & Ors.

... Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. K.S. Dhanora, Advocate
for the appellants.**

**Mr. Mohit Garg, Advocate
for respondent Nos.1 and 2.**

**Mr. D.R. Bansal, Advocate
for respondent No.3.**

ANITA CHAUDHRY, J.

The appellant-claimants are aggrieved by the dismissal of the claim petition by the Motor Accident Claims Tribunal, Bhiwani (for brevity, the Tribunal) vide award dated 13.08.2012.

The widow and minor daughters of deceased Bhagirath filed the petition seeking compensation for his death alleged to have occurred in the motor vehicular accident that had taken place on 14.02.2010. The deceased was coming towards Siwani in Bolero Jeep No. HR37B-0492 when tractor No. HR17-8424 came from the opposite side driven in rash and negligent manner. It dashed into the jeep, as a result Bhagirath sustained injuries and later died. It was claimed that the accident was witnessed by Ram Niwas and Ram Chander, who were following the deceased in their car No. HR16C-0144. The incident was reported to the police and FIR No. 35 dated

14.02.2012 was registered under Sections 279 and 304-A IPC. Compensation of Rs.20 lacs was sought.

In reply, respondents No.1 and 2 i.e. the driver and owner respectively denied the accident. It was averred that respondent No.1 was having valid license, so it was upon the insurance company to indemnify the claimants.

Respondent No.3 the insurer of the vehicle took the stand that there was violation of the conditions of the policy and no accident had taken place and no liability could be fastened upon them.

On appraisal of evidence, the Tribunal dismissed the claim petition.

Aggrieved therewith, instant appeal has been filed.

I have heard learned counsel for the parties and have carefully gone through the paper-book.

The case set up by the claimants was that the deceased was coming towards Siwani side while the tractor which was coming from opposite side, it came the wrong side and hit the jeep driven by the deceased. The witness also deposed on these lines. But their version was falsified from the site plan (Ex.P15) which was prepared during investigation. The tractor which was going towards Tosham side was shown on the left side of the road after the accident while the jeep was found lying on the right side of the road towards Siwani side i.e. towards the side from where the tractor was coming. In other words, the Bolero jeep was found on the wrong side of the road and had the tractor been negligent the vehicles would have been on the left

side of the road. It cannot be accepted that the tractor attached with trolley and loaded with sand turned to the opposite side after the impact. SI Tek Ram, who had investigated the case also admitted that the jeep was found lying behind the tractor trolley, meaning thereby it was not a case of head on collision, as claimed and the accident had occurred not due to rash and negligent driving of the tractor, but it had taken place due to negligence of the deceased himself. The Bolero was being driven at a high speed and its right side hit the right back side of the tractor and it turned turtle and the Tribunal had rightly held so. The findings are based on the evidence available on record. No ground for interference is made out. The appeal is dismissed.

20.11.2017

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**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No