

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

FAO No.898 of 2013 (O&M).
Decided on:-February 28, 2017.

Sukh Dass and others.

.....Appellants.

Versus

Rahul and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Balkar Singh, Advocate
for the appellants.

Mr. Satbir Mor, Advocate
for respondents No.1 to 8.

Mr. Gopal Mittal, Advocate
for respondent No.9.

HARI PAL VERMA, J.

Appellants-claimants have filed the present appeal against the award dated 17.07.2012 passed by learned Motor Accidents Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter called as the Tribunal).

Vide the aforesaid award, the Tribunal has dismissed the claim petition filed by the appellants-claimants under Section 166 of the Motor Vehicles Act, 1988.

Briefly stated, on 29.03.2007 at about 04.00 PM, Mukandi Lal i.e. father of the appellants-claimants No.1 to 3 and grandfather of appellant-claimant No.4 was coming to Jagadhri road. In the meantime, a tractor with

its trolley bearing registration No.HR-02E-7149 came from the back side which was loaded with sugarcane. The tractor was being driven rashly and negligently by its driver Kuldeep son of Teg Singh. The tractor hit Mukandi Lal, due to which he fell down and sustained multiple injuries. His left hip was fractured. He was taken to M.M. Hospital, Mullana and thereafter, shifted to Radix Hospital, Mullana on 06.04.2007 (wrongly mentioned as 06.04.2005). He remained under treatment for a long time and ultimately died on 12.08.2009.

The Tribunal has found that the statement of appellant-claimant Sukh Dass (PW2) by way of affidavit Ex.PW2/A was not trustworthy. He is a son of the deceased. Even the accident has not been proved. As per the claimants, the accident had taken place on 29.03.2007, whereas the FIR in the case was registered on 17.04.2007 i.e. after a delay of 20 days. As per the claim petition, Mukandi Lal had suffered multiple injuries including fracture of hip and had been admitted in the hospital. He subsequently died on 12.08.2009. Since the appellants-claimants have not adduced any evidence regarding the accident as well as the treatment taken from the aforementioned hospitals, the claim petition was dismissed. In para 12 of the Award, the Tribunal has non-suited the claim of appellants-claimants. The said para reads as under:

“12. Then, as per the version in the petition, the accident had taken place on 29.3.2007. However, FIR in this case was registered on 17.4.2007 i.e. after a delay of 20 days and for that too, no explanation has come on record. The petitioners have claimed that Mukandi Lal had

sustained/suffered multiple injuries including fracture of hip bone and had been admitted in hospital and subsequently he had died due to the injuries sustained by him but, apart from oral statement of PW2 Sukhdas, no other evidence could be brought by the petitioners on the record to this effect. PW2 Sukhdas in his sworn affidavit stated that injured had been taken to Burion Hospital and then remained admitted in Radix Hospital. However, interestingly enough, no record from either of these hospitals had been produced or summoned by the petitioners to prove that Mukandi Lal had infact remained admitted in said hospital and had sustained any injuries. PW2 Sukhdas stated that he had got his father medico legally examined but no medico legal report was produced in evidence. No doctor from either of the above mentioned hospitals had been summoned by the petitioners to prove that Mukandi Lal had sustained any injury and remained under treatment of any doctor. There is also no medical evidence on record to show that death of Mukandi Lal had been caused due to injuries sustained in the accident. In the absence of any oral or documentary evidence on record to corroborate the statement of PW2 Sukhdas, in my opinion, the same cannot be relied upon and cannot be said to be sufficient to prove the claim of the petitioners. As such, the position which emerges is that there is no sufficient, convincing and positive evidence on record which can be acted and relied upon for the purpose of proving that Mukandi Lal had even sustained any injuries due to rash and negligent driving of the tractor in question and further that his death had been caused due to those injuries. The petitioners even failed to bring any documentary evidence on record to prove that Mukandi Lal had even died. In such circumstances, I am inclined to hold that the petitioners have failed to prove that the accident had taken place due to rash and negligent driving

of tractor bearing registration No.HR-02-E-7149 by respondent No.1 and further that Mukandi Lal had sustained injuries and had died due to those injuries. Therefore, question of awarding any compensation to the petitioners also does not arise as even no medical bill regarding purchase of medicines or receipts regarding admission in the hospital and treatment of Mukandi Lal had been produced on record or summoned from the record of any hospital by the petitioners. Even, the factum of death of Mukandi Lal due to the injuries sustained by him has not been proved. Therefore, both these issues are decided against the petitioners and in favour of the respondents.”

Learned counsel for the appellants-claimants has argued that the statement of Sukh Dass (PW2) that the accident had occurred due to rash and negligent driving of respondent No.1 Kuldeep, though initially named as Surender Singh son of Banarsi Dass. Both these persons belong to the same village, but they are known with their nick names. Therefore, they are the same persons. He has further argued that it is because of the injury, said Mukandi Lal had died after a prolonged illness.

On the other hand, learned counsel for the respondents have argued that the present is a case where the appellants have tried to propagate a false story so as to claim compensation by introducing altogether false version.

I have heard learned counsel for the parties.

This Court finds that there is no infirmity/illegality in the well-reasoned award passed by the Tribunal. Sukh Dass (PW2) is real son of deceased Mukandi Lal and at one point of time, he has stated that the tractor

in question was being driven in a rash and negligent manner by Surender Singh son of Banarsi Dass, whereas at later stage, he has stated that the accident was caused by the rash and negligent driving of Kuldeep Singh. Incidentally, both these persons i.e. Kuldeep Singh and Surender Singh are from the same village, but still claimant failed to identify as to who caused the accident. The appellants-claimants have tried to extract easy money by filing the present claim petition.

The appellants-claimants have not only failed to prove the accident, rather, have failed to adduce any evidence that said Mukandi Lal has died because of the injuries suffered in the accident in question. No medical evidence of any hospital or doctor was produced by them. Therefore, this Court finds that the appellants-claimants have not approached the Tribunal with clean hands, rather, have tried to extract easy money under the garb of the accident in question.

Thus, this Court finds no merit in the present appeal and the same is, accordingly, dismissed.

February 28, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No