

FAO No.2419 of 2009

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

FAO No.2419 of 2009
Date of decision: 14.02.2018

Smt. Savita Devi and others

.....Appellants

versus

Akbar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Sudhir Aggarwal, Advocate, for the appellants.
Mr. Sarfaj Hussain, Advocate, for respondent No.1.
Mr. Ashwani Bakshi, Advocate, for respondent No.2.
Mr. Sanjiv Pabbi, Advocate, for respondent No.3.

RAMENDRA JAIN, J. (ORAL)

Unsuccessful claimants have preferred this appeal against the impugned award dated 08.01.2009 of the Motor Accident Claims Tribunal, Gurgaon (in short the 'Tribunal'), dismissing their claim petition under Section 166 of the Motor Vehicles Act, 1988 (in short the 'Act').

In nutshell, one Jai Bhagwan aged around 37 years in the night of 18.05.2006 died in a motor vehicular accident allegedly caused by jeep bearing No.HR-13-F-0078 driven by respondent No.1, owned by respondent No.2 and insured with respondent No.3. Consequently, the appellant-claimants being his widow and minor children filed a claim petition under Section 166 of the Act against the respondents, which has been dismissed by the Tribunal vide award dated 08.01.2009.

Heard.

Undisputed facts are that the accident had occurred in the late night of 18.05.2006. After the accident, one Assistant Sub Inspector, namely, Jaswant Singh got Jai Bhagwan admitted in the hospital after three

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hours. By that time, identity of the offending vehicle, its driver and that of Jai Bhagwan was not known to anyone.

PW7 Vijay Kumar, who got lodged the FIR after 10 days on 28.05.2006, claiming himself to be an eyewitness of the accident, while appearing in criminal case under Sections 279, 337 and 304-A IPC, turned hostile and did not support the prosecution case, which resulted into acquittal of driver-respondent No.1.

In the claim case, Vijay Kumar aforesaid in his cross-examination admitted that deceased Jai Bhagwan though was his co-villager and had received grievous injuries, but he did not take the deceased to the hospital and went home leaving the deceased lying at the spot in injured condition without informing his family members or anyone else.

From the above conduct of the aforesaid witness, the Tribunal has rightly disbelieved him by observing that it is completely unbelievable that a co-villager would go home even after seeing his co-villager in injured condition on the road to let him die and would not inform the family members of the injured.

No fruitful argument has been raised by learned counsel for the appellants.

I have gone through the impugned award and find no illegality or perversity in the same.

In view of the discussion above, appeal fails and the same is hereby dismissed.

February 14, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.