

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

FAO No.2688 of 2010 (O&M)

Date of decision: 08.05.2018

Raghubir Singh and others

....Appellants

Versus

Vijay Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.K. Chaudhary, Advocate,
for the appellants.

Mr. Rajesh Hooda, Advocate,
for respondent No. 1.

Mr. Sandeep Suri, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal is directed against the Award dated 23.09.2009 passed by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') dismissing the claim petition filed by the claimant-appellants seeking compensation on account of death of Smt. Shano Devi in a motor vehicular accident which took place on 16.12.2007. Appellant No.1 is husband and appellant Nos. 2 & 3 are sons of deceased-Shano Devi.

Brief facts of the case are that on 16.12.2007, Smt. Shano Devi (since deceased) along with her nephew Surender Singh son of Mange Ram left Hansi for Gagankheri on a motorcycle bearing registration No.HR-21-B-9017. The said motorcycle was being driven by Surender Singh. When they reached at bus-stand, Sheikhpura at about 11.20 A.M., in the meantime, a car bearing registration No.DL-2-CAH-3023 being driven by

respondent No.1-Vijay Kumar in a rash and negligent manner, came from

the side of Jind and struck against the motorcycle, as a result of which, Surender Singh and Smt. Shano Devi fell down. Smt. Shano Devi received serious injuries. Later on, she succumbed to the injuries. With regard to the accident, FIR was registered on the basis of statement of Surender Singh. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

After going through the entire evidence led by the parties, the Tribunal dismissed the claim petition.

In the present case, FIR No.281 dated 16.12.2007, under Sections 279/304-A/427 IPC has been registered at Police Station, Sadar, Hansi on the statement of Surender Singh (PW-1), who was an eye witness of the accident. However, he had given the registration number of the offending car as DL-3CU-2015 instead of DL-2-CAH-3023. Thereafter, he made a supplementary statement on 24.01.2008 and gave correct version regarding the number of car, which was a Zen Estilo car. Copy of FIR has been proved on record as Ex.P1. After investigation, challan was presented against driver of Zen Estilo car namely Vijay Kumar-respondent No.1. However, charge-sheet Ex.R3 was presented against respondent No.1 while using Indica car bearing No.DL-3CU-2015. After facing trial, respondent No.1 has been acquitted of the charge framed against him. This fact is not being disputed by learned counsel for the claimants in the Court today. The challan had been presented against a different car and that is why, he was acquitted. The present claim petition has been filed against driver-Vijay Kumar, who was a driver of Estilo car and not of India car.

In the present case, no evidence was led by the claimants to show as to which car was involved in the accident and who was actually,

driving the offending car. Even Surender Singh (PW-1), who was eye witness of the accident, in his initial statement before the police, had given a wrong number of the offending vehicle. Subsequently, he supplied the number of the said vehicle. In the absence of any cogent and convincing evidence, finding given by the Tribunal on issue No.1 does not require any interference.

Resultantly, after going through the impugned Award, this Court is of the view that in the absence of any evidence with regard to number of the offending vehicle and negligence of the driver, the Tribunal has rightly dismissed the claim petition. No ground is made out to interfere therein.

Dismissed.

(RITU BAHRI)
JUDGE

08.05.2018
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No