

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

FAO NO. 6365 OF 2011 (O&M)

DATE OF DECISION: NOVEMBER 22, 2018

Leela and others

.....Appellants

Versus

Narender Singh and others

.....Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Sandeep Verma, Advocate for the appellants.

Mr.Aman Dhir, Advocate for respondent No.3.



TEJINDER SINGH DHINDSA, J.

Claimant-appellants have filed the instant appeal assailing the award dated 10.3.2011 passed by the Motor Accident Claims Tribunal, Faridabad and in terms of which their claim petition seeking compensation on account of death of Bijender Singh son of Shri Mam Chand had been dismissed.

2. Briefly, it may be noticed that claim petition was filed under Sections 166 and 140 of the Motor Vehicles Act, 1988 seeking fair and just compensation on the averments that on 15.2.2009, Bijender Singh (since deceased) was driving a motor cycle and on which his brother Jaibir Singh was pillion rider. When they reached in front of M/s Talbros Company, Mathura Road, Faridabad, they were struck by the offending Maruti car

bearing registration No.HR51Q-0236 being driven in a rash and negligent manner by Narinder Singh. Both, Bijender Singh and his brother Jaibir Singh suffered injuries. Driver of the offending vehicle stated to have fled away from the spot along with offending vehicle. Deceased Bijender was, initially, taken to Sarvodya Hospital for treatment but thereafter referred to Safdarjang Hospital, New Delhi on 28.2.2009 but he succumbed to his injuries on 1.3.2009. On the statement of Jaibir Singh, FIR No.75 dated 18.2.2009, under Sections 279, 337, 304-A of the Indian Penal Code was registered. Claimants were the widow and four minor children of deceased Bijender Singh.

3. The Tribunal in its award dated 10.3.2011 has taken a view that the claimants have failed to prove that the accident in question has been caused by respondent No.1-Narinder Singh while driving the offending Maruti car bearing registration No. HR51Q-0236 and had, accordingly, dismissed the claim petition.

4. Learned counsel for the appellants has argued that the Tribunal has not appreciated the evidence led by the claimants in the correct perspective. Further urged that the testimony of PW3-Tek Chand, who was an eye witness to the occurrence, has been brushed aside mechanically. Further contended that even the testimony of PW2- Jaibir Singh who was riding the motor cycle and was present at the spot when the accident occurred and was author of the FIR, has not been given due weightage. Yet another submission raised is that pursuant to the FIR having been registered, respondent No.1-Narinder Singh had faced trial on account of rash and negligent driving and this, by itself, was sufficient for the Tribunal to have

drawn an inference in favour of the claimants.

5. Mr.Aman Dhir, learned counsel representing respondent No.3 has supported the award and submits that the claim petition has been rejected on valid and cogent reasoning. He prays for dismissal of the appeal.

6. Claimants are relying basically on the testimony of PW2-Jaibir Singh and PW3-Tek Chand. Concededly, even though PW2-Jaibir Singh was pillion rider of the motor cycle but he had not seen the vehicle number at the time of accident. Even in the FIR bearing No.75 dated 18.2.2009 registered at Police Station 31, Faridabad and of which PW2-Jaibir Singh was the author, no vehicle number has been mentioned. The vehicle in question i.e. Maruti Car No.HR51Q-0236 has been involved on the statement of PW3-Tek Chand who has been introduced as an eye witness. PW3-Tek Chand had appeared before the Tribunal and had filed his affidavit Exhibit PW3/A and in which he had asserted that on 15.2.2009 at about 3.30 p.m. when he was going from Delhi to Faridabad in his Canter, he had seen one car that had struck against the motor cycle of the deceased from the back side and the car driver had fled away from the spot along with the offending car. PW3 stated that he had chased the car and noted down the registration number, but, however, the car driver succeeded in getting away towards Sector 28, Faridabad. As per PW3, he was in hurry and as such, he did not report the matter to the police authorities. Thereafter, after a lapse of almost three months i.e. on 27.5.2009, when he was present at Budhia Nala along with his vehicle and where a number of other drivers and vehicle owners were present, PW2 Jaibir Singh also happened to be present

and referred to the accident that had taken place three months back in which his brother Bijender Singh had died and it was at that stage that PW3-Tek Chand disclosed the registration number of the offending vehicle to PW2-Jaibir Singh.

7. The version set forth by PW3-Tek Chand does not inspire any confidence as has been rightfully observed by the Tribunal while rejecting the claim petition. PW3-Tek Chand was set up as the sole eye witness to the accident that took place on 15.2.2009. He stated to have noted down the registration number of the offending vehicle and had even chased the car on 15.2.2009 after the accident. Strangely, he chose to remain quiet all through and did not report and disclose the factum of the accident as also registration number of the offending vehicle to the police authorities. Even, after a period of three months, it is a chance meeting that is stated to have taken place between PW3 and PW2 and whereupon the registration number was disclosed by PW3-Tek Chand to PW2-Jaibir Singh i.e. brother of the deceased. This Court would have no hesitation in observing that the testimony of PW3 is not trustworthy.

8. That apart, during the course of arguments, learned counsel for the appellants concedes that the police had submitted an untraced report as regards the accident, but, subsequently, on the statement recorded of Tek Chand after a lapse of three months, proceedings were initiated against the driver of the Maruti car. It has also been conceded that the trial that had ensued against Narinder Singh i.e. driver of the Maruti car has culminated in the acquittal of the driver.

9. In the totality of circumstances, this Court does not find any

patent infirmity or illegality in the impugned award dated 10.3.2011 passed by the Motor Accident Claims Tribunal, Faridabad.

10. Consequently, the appeal is dismissed.

NOVEMBER 22, 2018
SRM

(TEJINDER SINGH DHINDSA)
JUDGE

<i>Note:</i>	<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
	<i>Whether Reportable:</i>	<i>Yes/No</i>