

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

FAO No. 3183 of 2012

DATE OF DECISION : 01.05.2018

Raj Rani and another

....APPELLANTS

Versus

Pawan Kumar and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Amit Singla, Advocate,
for the appellants.

Mr. Paul S. Saini and Mr. Vipul Sharma, Advocates,
for respondent No.5.

* * *

AVNEESH JHINGAN, J. (Oral)

The appellants in the present appeal are aggrieved of dismissal of their claim petition by the Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal') vide award dated 13.05.2011.

2. A claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short, 'the Act') was filed by the legal heirs of Bhagwan Dass, who allegedly lost his life in a motor vehicular accident that took place on 17.10.2009. It was pleaded that when Bhagwan Dass reached one kilometer away from Prabhuwala, one tractor bearing registration No. HR-32B-8056 hit him, as a result of which he suffered multiple injuries and died at the spot. FIR No. 277 dated 18.10.2009 was registered at Police Station

Uklana. The body was taken to General Hospital, Hisar, where the post mortem was conducted.

3. The Tribunal dismissed the claim petition on the ground that the claimants failed to prove the involvement of the alleged tractor in the accident.

4. Aggrieved of dismissal of the claim petition, the present appeal has been filed by the claimants.

5. Learned counsel for the appellants argued that the Tribunal erred in dismissing the claim petition as brother of the deceased, namely Manohar Lal, appeared before the Tribunal as PW.3 and deposed that he was eye witness to the accident.

6. It would be pertinent to mention at this stage that the accident took place on 17.10.2009 and the FIR was registered on the statement of Manohar Lal, in which he stated that he reached the accident spot after receiving the information that his brother had met with an accident on the intervening night of 17/18.10.2009. There he found brake marks of the tractor on the road and tyre marks on the *kacha* portion of the road. No detail or registration number of the tractor was mentioned in the FIR. While deposing before the Tribunal, he improved his version and stated that his brother had come to meet him and he was going to leave him. When they reached one kilometer away from Prabhuwala, a tractor bearing registration No. HR-32B-8056, being driven rashly and negligently, hit his brother. He categorically stated that he witnessed the accident. In his cross-examination,

he faltered and stated that he received information about the accident at 10 AM whereas the accident took place at 7 PM on the previous night. He stated that when he reached the spot, body of Bhagwan Dass was lying on the road. There was no other eye witness to the accident. In such circumstances, the statement of Manohar Lal is found not worthy reliance.

7. Learned counsel for respondent No.5 – insurer contended that even challan in the FIR case was filed against an unknown vehicle. The challan was produced before the Tribunal as Ex.P1.

8. In the facts and circumstances of the case, no blemish can be casted on the findings recorded by the Tribunal. Appeal is dismissed. However, without prejudice to the decision in the present appeal, the claimants would be at liberty to move a claim petition under Section 161 of the Act.

May 01, 2018
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No