

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

FAO No.5739 of 2012

Date of Decision: 20.03.2018

Mrs. Suman

....Appellant

V/S

Shiv Dayal and Others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Lokesh Sinhal, Advocate,
for the appellant.

Ms. Sonia Rani, Advocate, for
Mr. Sanjeev Goyal, Advocate,
for respondent No.3.

RITU BAHRI, J.(Oral)

This appeal has been filed by the claimant-appellant against the award dated 14.08.2012 passed by Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') whereby claim petition filed by the appellant for grant of compensation on account of death of her husband Sukkan in motor vehicular accident which took place on 06.08.2011, has been dismissed.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 06.08.2011, at about 1.30 pm deceased Sukkan and Ram Narayan were going from labour chowk, Shastri Nagar Chowk, Faridabad, towards Sector 16, Faridabad on their separate cycles with due care and caution on correct side of the road for opening the drains on the side of the road by removing the rainy water from the road and when they reached on the driving road of Sector 16-17, Faridabad at the

turning point of Sector 14, Faridabad in the meantime offending Santro Car bearing registration No. HR51-AM-9501 came at a very speed, in a rash, negligent and reckless manner, without blowing horn and struck against the cycle of deceased Sukkan as a result of which Sukkan fell down on the road and sustained multiple and grievous injuries all over his body including fractures on his both hands and legs. Immediately after the accident, respondent NO.1 fled away from the spot along with the offending vehicle. In the meantime, various persons gathered at the spot and deceased was taken to Metro Hospital, Faridabad where he was got admitted as an indoor patient and was given treatment by concerned medical officer. The deceased remained admitted as indoor patient in the said hospital but he succumbed to the injuries on 09.08.2011 during his treatment. The said accident was witnessed by various persons and on the statement of Ram Naryan FIR No. 372 dated 09.08.2011 under Sections 279, 337, 338, 304 A IPC was registered at Police Station Central, Faridabad against respondent No.1.

Consequently, claimants-appellant filed a claim petition before the Tribunal.

From the pleadings of the parties, the following issues were framed:

- (i) Whether the present accident had taken place due to rash and negligent driving of Santro Car No. HR-51AM-9501 by respondent No.1? OPP.
- (ii) If issue No.1 is proved, whether the claimant is entitled for any amount of compensation, if so to what amount and from whom? OPP.
- (iii) Whether respondent No.1 was not holding a valid and

effective driving licence at the time of accident and insured had also violated the other terms and conditions of the Policy and as such respondent NO.3 is not liable to make payment of compensation, if any?OPR3.

(iv) Relief.

In view of the fact that petitioners have not led cogent evidence to connect the vehicle in question with the accident in which Sukkan lost his life, the petitioners have failed to prove that the authenticity of vehicle i.e. Santro car bearing No. HR 51 AM 9501 by which accident took place due to rash and negligent driving on the part of respondent No. 1. On the basis of evidence produced by both the parties, Tribunal dismissed the claim petition of the petitioner.

Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the record.

A perusal of the award shows that, FIR Ex. P15 was registered on the statement of PW 4 Ram Narayan, the alleged witness of the occurrence, on 09.08.2011 i.e., after three days of the occurrence. In the FIR It is mentioned that a black colour car came from Sector 18 being driven by an unknown driver in a rash and negligent manner and hit the cycle of deceased Sukkan. So, in the FIR, it is mentioned that the car which caused the accident was of black colour. The other particulars of the vehicle viz. Kind, make and registration number etc. nor the name of the driver have been mentioned. Even in the Fir it is mentioned that the car which caused the accident was of black colour. No make of the car has been mentioned in

the FIR, Ex. P12 is the copy of registration certificate of the car in question which shows that the colour of the car No.HR-51AM-9501 is white. Learned Counsel for the appellant also informed that the driver has since being acquitted.

However, award shows that PW4 Ram Narayan filed his supplementary statement in which he has mentioned that the car which had caused the accident was of white colour Santro and later on he came to know its registration number as HR 51 AM 9501. This supplementary statement has been recorded on 12.08.2011 i.e., after six days of the occurrence. In the supplementary statement PW 4 Ram Narayan has nowhere mentioned as to how he came to know that the car involved in the accident was of white colour Santro bearing No. HR-51-AM-9501. Even he does not disclose from which source he came to know about the identity of this vehicle. He has also not explained as to why he has got mentioned in the FIR that the colour of the car involved in the accident was black. Hence it is clear that version of the eyewitness has not been trustworthy and Tribunal has rightly been dismissed the suit.

Hence, the impugned Award, the orders of the learned Tribunal does not reflect any material irregularity or perversity which warranting interference. Hence the present appeal stands dismissed.

20.03.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes
Whether reportable No