

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

FAO-4830-2014 (O&M)
Date of decision: 16.05.2018

PROMILLA AND ORS

... Appellants

Versus

PARDEEP KUMAR AND ORS

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ashish Pannu, Advocate
for the appellants.

Mr. Sanjeev Goyal, Advocate
for the insurance company.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 19.11.2013 passed by the Motor Accidents Claims Tribunal, Jhajjar whereby application for grant of compensation filed under Section 166 of the Motor Vehicles Act, 1988 on account of death of Sandeep @ Sonu son of Satbir Singh in a motor vehicular accident that took place on 18.10.2011 has been dismissed on the basis of findings on issue No.1 against the claimants.

In brief, case set up by the claimants is that on 18.10.2011 at about 2.00 pm, Parveen Kumar (PW1) with his brother Sandeep @ Sonu (since deceased) left for village Sevli, District Sonapat on motorcycle bearing No.HR-10G-8162 from village Naya Gaon. The deceased was

driving the motorcycle and Parveen was the pillion rider. When they crossed village Ladrawan and were in front of Shri Sai Restaurant, Nahra Nahri Road, car bearing No.DL-4CAC-2893 came from front side in a rash and negligent manner and hit the motorcycle from front side. Parveen and Sandeep suffered serious injuries. The deceased was shifted to Government Hospital, Bahadurgarh but died on the way. FIR No.442 dated 18.10.2011 under Sections 279 and 304-A IPC was registered at Police Station Sadar, Bahadurgarh. After investigation, police filed the challan against respondent No.1. The claimants prayed for grant of compensation Rs.50 lakh with interest.

The Tribunal framed issues, permitted the parties to adduce evidence in support of their respective claims. Having heard counsel for the parties in the light of materials on record, the Tribunal answered issue No.1 against the claimants in view of observations made in para 17 of the award and eventually the claim application was dismissed.

A relevant extract from para 17 of the award reads as follows:-

“xx xx xx

That apart in the FIR, Parveen neither disclosed the registration number of the offending vehicle nor the name of the driver. In his cross-examination, he has deposed that he had come to know about registration number of the offending vehicle after 15 days of the accident. How he came to know about the registration number of offending vehicle, has remained unexplained on the record. Parveen in the FIR also did not disclose

the make of the Car; which was involved in the accident.

xx xx xx.”

Counsel for the appellants would urge that Parveen could recall the registration particulars of the vehicle after about 11 days of the occurrence and therefore, he was able to depose before the Tribunal about identity of the offending vehicle. It is further argued that standard of proof required in proceedings before the Tribunal that are summary in nature stands at a different footing than that of proving culpability of an accused in a criminal case. It is further argued that after due investigation of FIR lodged at the behest of Parveen, driver of the offending vehicle was put to trial, therefore, materials on record are more than sufficient to establish plea of the claimants and issue No.1 is liable to be answered accordingly.

Counsel representing the insurance company has supported findings of the Tribunal on issue No.1 with the submission that neither Parveen was present at the place of occurrence nor he knew as to how the accident took place or with which vehicle. It is argued that had it been true that Parveen was present at the spot and suffered any injury in the accident as has been sought to be projected in the claim application, there was no reason for Parveen to withhold evidence with regard to his medical treatment. According to counsel, the offending vehicle has been planted with a view to extract money from the insurance company.

I have heard counsel for the parties, perused the paper book particularly the award.

Counsel for the claimants, in response to a query, would inform that Parveen turned hostile in the criminal proceedings that culminated in acquittal of driver of alleged offending vehicle. As has been rightly noticed by the Tribunal, Parveen did not supply the particulars of offending vehicle in the FIR nor disclosed as to how he came to know about the registration number of the offending vehicle after 15 days of the occurrence. The claimants did not examine investigating officer of the criminal case as to how the police could nominate the vehicle and driver involved in the occurrence. Taking a cumulative view of the facts and circumstances discussed hereinbefore when examined in the light of findings recorded by the Tribunal, I do not find any reason to interfere therein and the same are accordingly affirmed.

For the foregoing reasons, the appeal fails and is accordingly dismissed.

No order as to costs.

16.05.2018
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No