

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

FAO No.4410 of 2016(O&M)

Date of decision: 30.5.2018

Ram Pal Singh and anotherAppellants

VERSUS

Kuber Travellers and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Neeraj Jain, Advocate for
Mr. J.S. Ghuman, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

The present appeal directs challenge against award dated 20.01.2016 passed by Motor Accidents Claims Tribunal, Gurgaon (in short 'the Tribunal') whereby application for grant of compensation filed under Section 166 of the Motor Vehicles Act, 1988 (in short 'the Act') has been dismissed on the basis of findings recorded on issue No.1.

Counsel for the claimants/appellants would urge that merely because Ram Pal Singh PW-1 has not supported case of the claimants in his cross examination, the same should not be allowed to enure to benefit of the respondents to escape their liability to pay compensation on account of death of Parmod aged about 17½ years. In support of his contention, he has relied upon judgment of this Court **Bajaj Allianz General Insurance Co. Ltd. Vs. Ranjit Kaur and others, FAO No.1778 of 2016 decided on 18.07.2016.**

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

The Tribunal in paras 10 and 11 under issue No.1 has noticed that Ram Pal Singh PW-1 filed an affidavit Ex.PW1/A by way of examination in chief but in his cross examination, he has stated not to be the eye-witness of the accident. Similarly, Meera PW-2 has admitted that she has not seen the accident. To claim compensation under Section 166 of the Act, claimants are obligated in law to prove rash and negligent driving of the offending vehicle to become successful in their venture to claim compensation. As both the witnesses examined by the claimants have admitted that they did not witness the accident, findings of the Tribunal negating plea of the claimants that accident is result of rash and negligent driving of alleged offending vehicle cannot be faulted with. The judgment in **Bajaj Allianz General Insurance Co. Ltd. case** (supra) has been recorded in the peculiar facts and circumstances that the witnesses supported cause of the claimants before the Tribunal but they did not support the prosecution version in the criminal case, therefore, appellants cannot derive any advantage to their contention from the referred authority.

No other point has been raised.

For the foregoing reasons, the appeal fails and is accordingly dismissed in limine. No order as to costs.

MAY 30, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no