

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

FAO No. 8051 of 2016

Date of decision:- 10.05.2018

Dharambir Dahiya

...Appellant

Versus

Jai Dev and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Vikrant Hooda, Advocate
for the appellant

Mr. Vinod Gupta, Advocate
for respondent No. 3

RITU BAHRI J.

The present appeal has been preferred by the injured-appellant (for short 'the appellant'), against award dated 24.12.2015 passed by the learned Motor Accident Claims Tribunal, Jhajjar (for short, 'the Tribunal') whereby the claim petition filed by the appellant under Section 166 of the Motor Vehicles Act, has been dismissed.

A bare perusal of the impugned award shows that the claim petition of the claimant has been dismissed on the ground that firstly the presence of the alleged eye witness Subhash Chander was held to be doubtful, as he has not reported the matter to the police after shifting Ram Singh to Jiwan Hospital, Bahadurgar. He cannot be presumed to be busy in hospital, as the appellant i.e Dharambir was with his father in hospital. In his cross examined, he further admitted that he never went to police station to get his statement recorded from 14.03.2013 to 22.04.2013. Further the appellant has also not reported the matter to the police till 22.04.2013. The

father of the appellant died on 25.03.2013 and the appellant reported the matter on 25.04.2013.

Further as per Ex P-1, the appellant himself has got mentioned in F.I.R that on 16.03.2013, the police of Police Post Sector 9 has gone to Base Hospital, Delhi where doctor opined that the patient is not in a position to make the statement. He has mentioned that his elder brother was present there, who is serving in Navy but he was not aware of anything about the accident and he got recorded his statement just by chance. The version given by Parveen Kumar was first version given to the police when there is lesser possibility about the concoction of story.

The Tribunal has rightly dismissed the claim petition filed by the appellant as it seems to be a concocted story putforth by the appellant just to extract the compensation

Referred has been made to a judgment of this Court in a case of ***Smt. Nirmala Devi and others v. Ashok Kumar and others, 2014(3) LJR 427*** wherein it has been held that the value of the F.I.R contained version is that it is the earliest version about the accident. If a statement is made at variance with that version, the later statement can only be said to be an afterthought and cannot be relied upon unless a valid explanation is given for the change in the statement.

This judgment is directly applicable to the facts of the present case, as in the present case, the son of the deceased i.e Parveen Kumar in his first statement to the police stated that they do not want any action. In the second statement given by the present appellant, F.I.R has been registered, which is rightly been not believed by the Tribunal, as firstly the vehicle

which has caused the accident has not been seen by the eye witness Subhash Chander. It is further not believable that the appellant was busy in post death ritual as he reported the matter after one month of the death of his father.

No ground is made out to interfere in the impugned order dated 24.12.2015 passed by the Tribunal.

The present appeal stands dismissed.

10.05.2018
G Arora

(*RITU BAHRI*)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>