

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO-6721-2017 (O&M)
Date of Decision : 4.7.2018

Raj Kumar

....Appellant

vs.

Harvinder Kaur and others

....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Diwan S. Adlakha, Advocate
for the appellant.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the Award of the Motor Accident Claim Tribunal, Yamuna Nagar at Jagadhri dated 17.4.2017 whereby the appellant being owner of the offending vehicle has been held liable to pay Rs. 11,05,503/- as compensation to the claimants/respondents No. 1 and 2.

Brief facts of the case are that the deceased Kulwant Singh was travelling on Aactiva when the motorcycle bearing No. HR-71B-0457 owned by the appellant came and hit from behind, as a result of which he ultimately died. The FIR was lodged by one Rishu who had accompanied the deceased to hospital. The Tribunal had found the appellant liable on the basis of the testimony of the said Rishu.

The first argument raised by the counsel for the appellant is that a perusal of the testimony of Rishu reveals that he did not really witness the accident because at the time of giving his testimony he stated that he did not note down the number of the offending vehicle but in the FIR the number of

the offending vehicle was mentioned. The Tribunal had also considered the entire testimony (and in my opinion rightly) and had held that the accident was duly proved. The reasons for this is that FIR was a contemporaneous event and in that the number was duly given. Had it be a case where no number of the vehicle was mentioned in the FIR but in the testimony which took place after two or three years the number was mentioned, it would have been different. Moreover, it is quite possible that after two to three years witness may get slightly confused about the exact sequence of the events but that will not suffice to discard his entire testimony. In the circumstances, the argument that the sole eye witness had not seen the accident cannot be accepted.

Second argument raised by the counsel is that the claimants have been given a sum of Rs. 1,05,000/- extra under the conventional heads. I find this is correct in view of “National Insurance Company Limited vs. Pranay Sethi and others 2017 SCC 1270” but I also find in view of the same judgment that future prospects had to be granted which have not been granted. In the circumstances, whatever extra amount had been granted under conventional heads is more than made up by the deficit on account of non grant of future prospects.

Accordingly, the appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

4.7.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No