

In the High Court of Punjab and Haryana at Chandigarh

FAO- 4984 of 2018(O&M)

Date of Decision: 8.8.2018

IFFCO TOKIO General Insurance Company Limited

---Appellant

versus

Labh Kaur and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Ms. Swati Batra, Advocate
for the appellant**

Rekha Mittal, J.

The present appeal directs challenge against award dated 6.7.2018 passed by the Motor Accidents Claims Tribunal, Patiala (in short “the Tribunal”) whereby compensation has been awarded on account of death of Sarup Singh in a motor vehicular accident that took place on 19.9.2017 who succumbed to the injuries on 30.9.2017 when he was under treatment in PGI, Chandigarh.

The sole submission made by counsel for the appellant is that Surinder Singh son of the deceased lodged FIR after a period of 11 days from the occurrence, therefore, there is considerable delay in lodging the FIR. Another submission made by counsel is that in the FIR, Surinder Singh has got recorded that his father sustained injuries when driver of Toyota Etios Car No. PB- 08CA-4647 hit him with force. He further stated that he got puzzled on seeing the accident but he had made full enquiry and

found that the accident took place because of rash and negligent driving of aforesaid car by its driver. It is argued that from the recitals in the FIR, testimony of Surinder Singh is to be entertained with suspicion if he was one of the eye witnesses to the occurrence. Counsel has also read cross examination of the witnesses in extenso to say that Surinder Singh despite knowing that he could call the police at the place of occurrence did not bother to do so and the same should be taken adversely against the claimants.

Sarup Singh sustained serious injuries in the occurrence that took place on 19.9.2017 and he remained under treatment in PGI, Chandigarh as he was referred to PGI from Civil Hospital, Rajpura. Surinder Singh has deposed in cross examination that the police came to PGI Chandigarh and he informed the police about the occurrence. No doubt, copy of FIR has been marked as exhibit in the evidence of the claimants but FIR is not a substantive piece of evidence. During cross examination of Surinder Singh, anything stated in his first version has not been put to the witness for seeking explanation in regard to any discrepancy in the case. The driver of the offending vehicle did not appear in the witness box to counter case of the claimants or testimony of Surinder Singh. Counsel for the appellant has failed to point out any materials on record that the offending vehicle has been planted as a result of collusion between the claimants and owner of the offending vehicle. Rather there is nothing on record suggestive of the fact that the claimants knew the owner or/and driver of the offending vehicle at any point of time before lodging of the FIR or even before the occurrence on 19.09.2017. In this view of the matter, I do not find any reason to interfere in findings of the Tribunal on

issue No. 1 upholding plea of the claimants that accident is the result of rash and negligent driving of Toyota Etios Car No. PB- 08CA-4647.

No other point has been raised.

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

(Rekha Mittal)
Judge

8.8.2018

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No