

FAO No.203 of 2001 (O&M)

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

FAO No.203 of 2001 (O&M)

Date of decision: 25.11.2019

Smt. Shubh Rani and others

.....Appellants

versus

Bachna Ram and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Kuldip Sanwal, Advocate, for the appellants.
Mr. Vinod Chaudhri, Advocate, and
Ms. Geeta Chaudhri, Advocate, for respondent No.4.

RAMENDRA JAIN, J. (ORAL)

Through this appeal, claimants have laid challenge to award dated 17.01.2000 of the Motor Accident Claims Tribunal, Gurdaspur (in short 'the Tribunal'), dismissing their claim petition under Section 163-A of the Motor Vehicles (Amended) Act, 1994 (in short 'the Act').

According to the appellant-claimants, on 09.11.1995, Dharam Dutt, travelling in a car bearing registration No.HR-26-C-1801 along with AW1 Harbans Lal and one Jagjit Singh Bedi met with an accident in the area of ITI, Nawanshahr, falling under Police Station, Nawanshahr, allegedly caused by truck bearing registration No.PAC-2833 driven by respondent No.1, owned by respondents No.2 and 3 and insured with respondent No.4, and succumbed to his fatal injuries. No FIR was registered qua this accident, rather only a DDR was got recorded.

Widow and children of deceased Dharam Dutt filed a claim petition under Section 163-A of the Act, claiming compensation in

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accordance with Second Schedule of the Act, before the Tribunal, who after holding trial dismissed the claim petition vide impugned award dated 17.01.2000 on the ground that claimants could not prove alleged accident and resultant death of Dharam Dutt in it.

Learned counsel for the appellants *inter alia* contends that the Tribunal has dismissed the claim petition illegally relying upon DDR, which the police had recorded on its own without statement of anyone. Tribunal failed to appreciate that claim petition of the appellants was under Section 163-A of the Act, therefore, no negligence of respondent No.1 was required to be proved. Tribunal atleast ought to have awarded amount of ₹50,000/- under “no fault liability” to the appellants-claimant.

On the other hand, learned counsel for Insurance Company, refuting above submissions and pleading legality and validity of the impugned award, contends that since involvement of any vehicle could not be proved by the appellants, therefore, they have rightly been non-suited by the Tribunal, dismissing their claim petition.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal completely devoid of any merit for the reasons to follow.

DDR (Ex.A1) was allegedly recorded by Harbans Lal. However, in his cross-examination he testified that he had not recorded the said DDR, rather the police recorded the same on its own giving wrong facts after obtaining his signatures on blank papers. In view of his above specific statement, DDR (Ex.A1) has rightly been ignored by the Tribunal. After exclusion of the same, there was nothing before the Tribunal on record to

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show that Dharam Dutt had died in some motor vehicular accident allegedly caused by offending truck bearing registration No.PAC-2833 driven by respondent No.1 inasmuch as no FIR was registered qua alleged accident in question nor respondent No.1 was ever prosecuted for causing the same. In the absence of any documentary evidence, bald statement of alleged companion of deceased Dharm Dutt AW1 Harbans Lal has rightly been discarded by the learned Tribunal.

Moreso, a claim petition under Section 163-A of the Act is maintainable only if income of the deceased is not more than Rs.40,000/- annually. In the instant case, appellant-claimants claimed income of the deceased at ₹6,520/- per month. AW2 Rajiv Sharma deposed that income of the deceased at the time of his death was ₹7,000/- per month. Therefore, claim petition was not maintainable in view of the above fact that annual income of the deceased was more than ₹40,000/-

Dismissed.

(Ramendra Jain)
Judge

November 25, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No