

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

FAO No. 4613 of 2019(O&M)

Date of decision: 14.10.2019

Shri Ram General Insurance Co. Ltd.Appellant

VERSUS

Harjit Kaur and othersRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Sachin Ohri, Advocate for the appellant.

REKHA MITTAL, J.(Oral)

Challenge in the present appeal has been directed against award dated 09.01.2019 passed by the Motor Accidents Claims Tribunal, Mohali (in short 'the Tribunal') whereby compensation has been assessed on account of death of Gurjit Singh in a motor vehicular accident that took place on 07.08.2017.

The sole submission made by counsel for the appellant is that findings of the Tribunal on issue No.1 are erroneous, thus, cannot be allowed to sustain. To bring home his contention, it is argued that deceased was pillion rider on motorcycle No.PB65-AL-0671 driven by Satvir Singh respondent No.3. Satvir Singh lodged FIR No.136 dated 08.08.2017 at Police Station Kharar attributing rashness and negligence to a Bolero vehicle. It is further argued that claimants twisted the story and attributed rashness and negligence to Satvir Singh, driver of motorcycle. They examined Jaswant Singh PW-2 and he made a statement attributing rash and negligent driving to motorcyclist Satvir Singh contrary to his statement

recorded under Section 161 Cr.P.C. in the criminal case. It is further submitted that statement of Satvir Singh recorded under Section 161 Cr.P.C. was proved on record by examining ASI Harpal Singh RW-1, Investigating Officer of the criminal case. It is argued with vehemence that in view of contradiction in statement of Jaswant Singh before the Tribunal vis-à-vis his statement during investigation of the criminal case coupled with the first version recorded by Satvir Singh on the basis whereof FIR was registered, findings of the Tribunal qua issue No.1 based upon testimony of Jaswant Singh are liable to be set aside and application for grant of compensation may be dismissed.

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

Indisputably, Gurjit Singh was a pillion rider on motorcycle driven by Satvir Singh. Satvir Singh admitted happening of the accident but attributed rash and negligent driving to one Bolero vehicle. The claimants examined Jaswant Singh PW-2 to establish their plea that accident is the result of rash and negligent driving of motorcycle driven by Satvir Singh. Counsel for the appellant, in response to a query, would fairly inform that statement of Jaswant Singh recorded under Section 161 Cr.P.C. was not put to the witness though he admitted in cross examination that his statement was recorded in the criminal case on a particular date. The previous statement of a witness can be used for the purpose of corroboration or contradiction, otherwise, it has no evidential value. Since Jaswant Singh was never confronted with his previous statement recorded under Section 161 Cr.P.C., the appellant cannot derive any advantage thereof by exhibiting the same in view of testimony of ASI Harpal Singh

RW-1. Counsel for the appellant has failed to point out any facts elicited in cross examination of Jaswant Singh on the basis whereof it can be said that his testimony is not worthy of credence and reliance or he is an interested witness to support cause of the claimants. On the contrary, Satvir Singh had every reason to attribute negligence to another vehicle in order to escape his liability, both civil and criminal. In the given circumstances, I do not find any reason to differ with findings of the Tribunal on issue No.1.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeal fails and is accordingly dismissed in limine.

OCTOBER 14, 2019		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no