

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

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FAO-3641-2006 (O&M)
Date of Decision : 26.08.2019

Bala Devi and others

.... Appellants

Versus

Manoj Kumar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.Jitender Dhanda, Advocate
for the appellants.

Mr.A.S.Sidhu, Advocate
for respondent No.3.

RAMENDRA JAIN, J. (ORAL)

The claimants have filed the instant appeal against award dated 27.04.2006 of the Motor Accident Claims Tribunal, Hisar (for short-'the Tribunal'), dismissing their claim petition under Section 166 of the Motor Vehicles Act (in short, 'the Act') for grant of compensation against death of Mange Ram in a motor vehicular accident on 28.10.2002.

According to the appellants on 28.10.2002, Mange Ram, aged around 40 years, a hawker, used to sell clothes, was going from village Dhamana to Hisar. On the way, a bus bearing registration No.RJ-31P/0659 came from behind and struck against him. Wheel of the said bus crossed over his head. As a result thereof, Mange Ram died. FIR No.349 was registered on the next date against unknown driver of the vehicle. However, after around

two months, on 07.01.2003 the name of respondent No.1 as a offending driver was disclosed by PW2 Rajinder Singh to the police, whereupon Manoj Kumar (respondent No.1) was arrested on 07.06.2003. After thorough investigation, final report under Section 173(2) Cr.P.C. was filed against respondent No.1, holding him guilty in causing the accident. On these broad allegations, the appellants filed a claim petition under Section 166 of the Act, claiming compensation to the tune of Rs.10,00,000/-.

After holding trial, learned Tribunal dismissed the claim petition vide impugned award dated 27.04.2006.

Learned counsel for the appellants *inter alia* contends that a false FIR was got registered in this case. PW2 Rajinder was unaware about the death of Mange Ram, on the date of accident. Therefore, he left for some other place. After two months, when he returned to his native place, during conversation with Dhup Singh Sarpanch at Bus Stand Dhamana, he came to know about the death of Mange Ram in the accident witnessed by him on 28.10.2002. Consequently, he approached the police and disclosed the name of respondent No.1 as a culprit and responsible for causing the death of Mange Ram, by making supplementary statement. Since PW2 Rajinder was not an affected person, therefore, he did not take the matter seriously at the right moment, i.e. when the accident took place. Learned Tribunal has failed to appreciate the above fact, while dismissing the claim petition. In support of his arguments, he has relied upon the

judgment of a co-ordinate Bench passed in ***FAO No.1051 of 2004 titled as Smt. Krishna Kumari and others versus Dungen Lal and others***, decided on 03.11.2015.

On the other hand, learned counsel for respondent No.3 refuting the above submissions, pleaded the legality and validity of the impugned award.

Having given thoughtful consideration to the rival submissions, this Court finds the instant appeal completely devoid of any merit for the simple reason that complicity of respondent No.1 in the accident in question was shown after around 2½ months, which fact, in itself is sufficient to draw an adverse inference against the appellants that it was a hit and run case and they, in connivance with PW2 Rajinder Singh and PW3 Dhup Singh, Sarpanch, concocted a false story and produced them in Court as false witnesses to extract compensation from the Insurance Company in an illegal manner.

Learned Tribunal has rightly observed that there was no explanation as to how and from what source PW2 Rajinder Singh and PW3 Dhup Singh, Sarpanch, came to know about the registration number of the alleged offending vehicle and the name of the driver.

I have gone through the impugned award and find no illegality or perversity in the same. Rather, the same has been passed on correct appreciation of evidence. Thus no interference is called for.

However, the appellants are held entitled to compensation of Rs.50,000/- under Section 140 of the Act under the head “no fault liability”. The said amount shall be deposited by the Insurance Company, before the learned Tribunal within one month from today, along with up-to-date interest @ 9% per annum from the date of filing of claim petition till realization, for onward disbursement to the claimant-appellants, in accordance with law against proper receipt and identification.

In view of the peculiar facts of the case, order dated 01.06.2018 is recalled. The rate of interest awarded to the appellants shall not be treated as precedent in other case.

The instant appeal stands disposed of, accordingly.

August 26, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No