

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

**FAO No.4602 of 2009 (O&M)
Date of decision: 16.09.2019**

Ajit Singh and others

....Appellants

Versus

Lakhvinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.S. Rana, Advocate,
for the appellants.

RITU BAHRI J. (Oral)

This appeal has been filed against the Award dated 05.05.2009 passed by the Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') dismissing the claim petition filed by the claimants-appellants seeking compensation on account of death of Kuldeep Kaur in a motor vehicular accident which took place on 26.08.2007.

Brief facts of the case are that on 26.08.2007, Kuldeep Kaur (since deceased) along with her son Sukhwinder Singh was going from Ismailbad towards village Khanna Majra on their motorcycle. The said motorcycle was being driven by Sukhwinder Singh. When they reached about half kilometer ahead of bus stand, Sukhwinder Singh stopped the motorcycle and had gone to answer the call of nature at some distance. In the meantime, a motorcycle bearing No. HR-07-G-3657, being driven by Lakhvinder Singh-respondent No.1 in a rash and negligent manner, came from the side of bus-stand and struck the same against Kuldeep Kaur, as a

result of which, she fell down and received injuries on her head and died. Consequently, claimant-appellant filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that claimant has failed to prove that the accident in question, resulting into the death of Kuldeep Kaur on 26.08.2007, had taken place on account of rash and negligent driving of the offending vehicle by respondent No.1. With these observations, the claim petition filed by claimant-appellant was dismissed. Hence, this appeal.

Learned counsel for the appellants has argued that even if, no information was given to the police for getting the FIR/DDR registered, the claim petition could not be dismissed on this ground. He further argued that once of the claimant namely Sukhwinder Singh was going on his motorcycle along with his mother Kuldeep Kaur (since deceased) when the accident had taken place. Said Sukhwinder Singh, being an eye witness, had appeared and deposed before the Tribunal as PW-1. Therefore, his testimony should not have been discarded by the Tribunal.

Heard. On a specific query, learned counsel for the appellants has not been able to show that description of any offending vehicle was given to the police authorities immediately after the accident. Moreover, except testimony of Sukhwinder Singh (PW-1), no other evidence has been led to prove that the accident had taken place with the motorcycle in question, which was owned by Joginder Singh-respondent No.2. The claimants-appellants could get the benefit of non registration of the FIR, if any evidence had been led to show that the offending vehicle had claimed any damages from the insurance Company i.e. respondent No.3 on account of the damage suffered by the said motorcycle in the accident in question.

After hearing learned counsel for the appellant and going through the impugned award, it is apparent that claimant has failed to lead any substantial evidence to prove his case. Since there is no direct evidence to show that Kuldeep Kaur had died on account of the accident in question, the claim petition has been rightly dismissed by the Tribunal after appreciating evidence in the right perspective. No ground is made out to interfere therein.

Resultantly, finding no merits, present appeal is dismissed.

(RITU BAHRI)
JUDGE

16.09.2019
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No