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

FAO No. 880 of 2009

Date of Decision: 01.07.2019

Lala Ram and others

-Appellants

Vs

Naresh Kumar and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Amrita Nagpal, Advocate, for
Mr. Lokesh Sinhal, Advocate,
for the appellants.
Mr. Manjul Rana, Advocate, for
Mr. Vishal Yadav, Advocate,
for respondents No.2 and 3.
Mr. D.K. Dogra, Advocate,
for respondent No.4.

RAJ MOHAN SINGH, J. (ORAL)

1. This appeal has been preferred by the appellants against the award dated 31.10.2008 passed by the Motor Accident Claims Tribunal, Faridabad dismissing the claim petition in toto.

2. Net Ram died in the accident which took place on 16.09.2004 at village Jaindapur, Tehsil Palwal, District Faridabad. Net Ram was crossing the road for going to a shop for purchasing some goods at village Jaindapur, District Faridabad when the alleged offending vehicle TATA Sumo came in a rash and negligent manner from Sohna side and hit Net

Ram. It was alleged that the offending vehicle was being driven by respondent No.1 at the time of accident. Respondent No.1 fled away from the spot along with the vehicle.

3. Deceased- Net Ram died at the spot. He was taken to the hospital where the dead body was subjected to post-mortem on 17.09.2004.

4. The claim petition was filed by the appellants. FIR was registered by one Sunder Singh son of Soni Ram. Author of the FIR has not been examined before the Tribunal. The FIR was registered against unknown person and unknown vehicle. It was only on the basis of information furnished by one Raghuwar, police arrested respondent No.1. For want of incriminating evidence in the criminal case, driver has been acquitted by the criminal Court.

5. In the claim petition, author of the FIR has not been examined. Raghuwar has been examined as PW5. His statement has been dis-believed by the Court on so many counts. He was not known to the deceased Net Ram nor anyone from the locality had disclosed the name of the deceased to him. He did no mention any name of the driver vis-a-vis the name of the vehicle. The owner of the vehicle was not known to him. He had not written vehicle number anywhere nor anyone had disclosed him in this regard. He further admitted

that the police had never recorded his statement. The information furnished by him to the police did not correspond to any factual detail. He could not substantiate as to who received his information in the police station. The police arrested respondent No.1 after a period of three months.

6. The witness had appeared of his own as he was not summoned witness. The story put forward by him was not found to be trustworthy as he claimed to be a co-passenger in the alleged offending vehicle. The conduct of PW5 was deprecated by the Tribunal as his testimony was sufficiently impeached by respondents No.1 and 3 in the cross-examination. The witness did not take the injured to the hospital nor came forward to lodge any FIR.

7. A firm finding of fact has been recorded by the Motor Accident Claims Tribunal that no such accident had taken place with the involvement of the vehicle in question. Even in the appeal, no such evidence is sought to be produced even by way of additional evidence warranting any interference by this Court.

8. This appeal is found to be totally devoid of merits and the same is accordingly, dismissed.

01.07.2019

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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| 1. | Whether speaking/reasoned | : | Yes/No |
| 2. | Whether reportable | : | Yes/No |