

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-6233-2014 (O&M)

Date of decision: 10.09.2019

Harmeet Kaur and another

..... Appellants

Versus

Sukhwinder @ Shinda and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Mr. KBS Mann, Advocate for
Mr. PBS Goraya, Advocate for the appellants.

Mr. KS Chahal, Advocate for respondent No. 1.

Mr. Vinod Chaudhari, Advocate
for respondent No. 2-Insurance Company.

RAMENDRA JAIN, J. (ORAL)

Through this appeal the appellant-claimants have laid challenge to the Award dated 06.05.2013 of the Motor Accident Claims Tribunal, Tarn Taran (for short-'the Tribunal'), whereby their claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as-'the Act'), for claiming compensation, on account of death of their minor son-Jagjit Singh, aged around 15 years in a motor vehicular accident was dismissed.

Briefly, the appellants alleging that in the morning of 15.06.2009, their minor son-Jagjit Singh, his brother-Sukhraj Singh and cousin brother-Shubneet Singh, as a pillion rider on a scooter driven by

his brother, while going to Gurdwara Baba Budha Sahib Ji, met with an accident in the area of Kot Dharam Chand Khurd, caused by respondent No. 1-Sukhwinder @ Shinda, driving his jeep bearing registration No. HR-31-B-3418 (in short-'offending vehicle) make Sumo, in a rash and negligent manner and succumbed to his multiple grievous injuries received in the accident, on the way to hospital filed claim petition under Section 166 of the Act, before the Tribunal.

After holding trial, learned Tribunal dismissed the claim petition, observing that the appellants could not prove rash and negligence of respondent No. 1, in driving the aforesaid offending vehicle which is a condition precedent for claiming compensation under Section 166 of the Act, inasmuch as, they did not examine any eye-witness to the accident, who was none else, but another son of the appellants.

Heard.

Having heard learned counsel for the parties and going through the impugned Award, this Court is not inclined to differ with the findings of the learned Tribunal, inasmuch as, the appellant-claimants did not intentionally and deliberately examine their son-Sukhraj Singh, who was driving the scooter on which his brother-Jagjit Singh, was travelling as a pillion rider, despite the fact that he was the best person to depose about the manner of accident being an eye-witness.

There are other glaring features which impressed upon learned Tribunal in dismissing the claim petition. Thus, appeal, being meritless, is a dismissed.

However, the appellants are held entitled to compensation of ₹50,000/-, in view of provisions of Section 140 of the Act, under the head 'no fault liability', which respondent No. 2-Insurance Company, shall deposit within one month from today before the learned Tribunal, along with interest @ 7.5% per annum, from the date of filing of claim petition till the date of realization.

With the above observations, the instant appeal stands disposed of.

September 10, 2019
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(RAMENDRA JAIN)
JUDGE

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