

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.6507 of 2015 (O&M)

Date of Decision.26.11.2019

Rajender Kumar and another

...Appellants

Vs

Sanjay Saini and others

...Respondents

Present: Mr. Chanderhas Yadav, Advocate
for the appellants.

Mr. Satish Jain, Advocate
for the insurance company.

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

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JAISHREE THAKUR J. (ORAL)

This is an appeal, that has been filed seeking to challenge the award of the Motor Accident Claims Tribunal, Narnaul dated 19.05.2015 whereby claim petition of the appellants has been dismissed.

In brief, the facts are that the accident took place on 15.02.2013 between vehicle bearing registration No.HR36N-8288, being driven by deceased-Dheeraj and the vehicle described as Mahindra Logan bearing registration No.HR35H-2434, being driven by respondent No.1 in a rash and negligent manner. On account of accident, deceased-Dheeraj died at the General Hospital, Narnaul and consequently, the claim petition was filed seeking compensation to the tune of ₹30 lakhs.

On notice, respondents No.1 and 2 had appeared and filed their written statement alleging that no accident took place on the date as alleged, while claiming that the present claim had been lodged in collusion with the police and the alleged eye witness, just to extract compensation.

The respondent-insurance company appeared as well and submitted that no such accident took place, while arguing that the entire story as set out was a false and fabricated one.

The Tribunal framed the issues and in support of their contentions, appellants herein examined EASI Mahabir Singh as PW1, Gopal as PW2, Rajender as PW3 and Puneet Sawar, Assistant Ahlmad as PW4 and closed their evidence after tendering documents Ex.P1 to P4.

PW1 brought a copy of the FIR No.51 dated 16.02.2013 registered at Police Station Sadar Narnaul under Sections 279/304A IPC. Gopal Saini by his affidavit Ex.PW2/A stated that on 15.02.2013, he was along with the deceased when respondent No.1, while driving the offending vehicle in a rash and negligent manner hit into Dheeraj Kumar, who fell down on the road after sustaining severe injuries. He was then taken to the hospital. PW3 Rajinder Kumar supported the version as given by Gopal Saini in his affidavit whereas PW4 Puneet Sawar, Assistant Ahlmad brought the summoned record of the case titled as 'State Vs. Sanjay' bearing FIR No.51 dated 16.02.2013 under Sections 279/304A IPC.

The Tribunal on appreciation of evidence came to hold that there was no evidence on record by which it could be held that the offending vehicle was the one responsible for causing injuries and subsequent death of the deceased, thus, dismissed the claim petition.

Learned counsel appearing on behalf of the appellants assails the said award by contending that the FIR bearing No.51 dated 16.02.2013 has been registered before the Police Station Sadar Narnaul under Section 279/304A IPC, which was proof enough of the negligent driving of driver of the offending vehicle in question and further the post-mortem report has not been considered in its entirety.

Per contra, learned counsel appearing on behalf of the insurance company submits that the accident took place on 15.02.2019, consequent to which an FIR was registered at Police Station, Narnaul, which does not give

registration number of the offending vehicle. It is argued that the alleged eye witness namely PW2 Gopal Saini has admitted in his cross-examination that he could not tell the registration number of the offending vehicle, while further stating that he did not furnish any information to the police about the accident that took place. He only went to the hospital at about 11.30PM.

I have heard learned counsel for the parties and with their assistant have gone through the pleadings of the case and find that there is no ground made out to interfere in the award of the Tribunal. The FIR, which was registered on 16.02.2013 does not give description or particulars of registration number of the offending vehicle. The FIR was registered next day and that too by the father of the deceased. It is only after a period of seven months that the investigating officer in his report mentioned registration number of the vehicle but what is most pertinent to the case is that after registration of the FIR, an investigation was carried out and on 25.05.2013, an untraced report was prepared. There is no explanation forthcoming as to how the investigating officer came to know about the involvement of the vehicle, especially, in view of the fact that the alleged eye witness in his cross-examination has admitted that he had not noted down the number of the offending vehicle.

In my view, the evidence as produced has correctly been appreciated by the Tribunal and therefore, the same does not warrant any interference. Consequently, the appeal stands dismissed.

(JAISHREE THAKUR)
JUDGE

November 26, 2019

Pankaj*

Whether speaking/reasoned Yes

Whether reportable No