

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-7367-2015 (O&M)

Date of decision: 27.08.2019

Bismilla (now deceased) through her LRs

..... Appellant(s)

Versus

Intejar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Gaurav Jaglan, Advocate for
Mr. Ashish Gupta, Advocate for the appellant(s).

RAMENDRA JAIN, J. (ORAL)

Through this appeal, un-successful-appellant(s) being legal heirs of claimant-Bismilla (died during the pendency of claim petition), have laid challenge to the Award dated 27.08.2015 of the Motor Accident Claims Tribunal, Mewat (for short-'the Tribunal'), whereby their claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as-'the Act'), was dismissed being frivolous.

Briefly, according to the appellant(s) on 23.01.2014, Bismilla, received multiple grievous injuries in a motor vehicular accident allegedly caused by car bearing registration No. HR-51-AM-7722, driven in a rash and negligent manner by its owner and driver-respondent No. 1-Intejar, insured by respondent No. 3. After causing the accident, respondent No. 1 fled away from the spot. Smt. Bismilla, was admitted in Vinayak Hospital at Bhiwari. The matter was reported to

police, after around 21 days of the accident, which culminated into FIR No. 56 dated 13.02.2014, under Sections 279 and 337 IPC at Police Station Tauru. Smt. Bismilla, succumbed to her injuries, during pendency of claim petition. Her legal heirs i.e. her husband and two sons were brought on record as necessary party in the claim petition, claiming compensation to the tune of ₹10,00,000/- against the respondents, which after holding trial was dismissed by the Tribunal vide Award dated 27.08.2015, impugned herein.

Learned counsel for the appellant(s) *inter alia* contends that the police during investigation found complicity of respondent No. 1 in causing the accident, resulting into death of Smt. Bismilla. Therefore, there was no reason to dismiss claim petition on the ground of lodging the FIR delayed by 21 days. Respondents No. 1 and 2 also did not deny the accident. Therefore, learned Tribunal ought to have awarded compensation to the appellant(s), allowing their claim petition.

Having given thoughtful consideration to the submissions of learned counsel for the appellant(s), this Court finds the instant appeal merits dismissal for the reasons to follow:

FIR in this case was registered after 21 days of the accident by Umar Mohd., brother of deceased-Bismilla, who also allegedly received injuries in the impugned accident. The plea taken by the appellant(s) that aforesaid delay of 21 days in lodging the FIR, occurred due to continuation of talks of compromise in between them and respondents No. 1 and 2, is totally unbelievable, being false and concocted, in view of the fact that lodging FIR promptly, even if, talks of

compromise were going on in between the parties would have forced the respondents to agree to their terms. No explanation is being given by the appellant(s) that what abstained them from lodging the FIR promptly. Therefore, inordinate delay of 21 days in lodging the FIR in itself speaks volumes about conduct of appellant(s) that they after concocting a false story in connivance with respondents No. 1 and 2, to illegally extract compensation from the insurance company, got lodged the aforesaid FIR falsely.

There is another glaring feature in the instant case which falsify the story put forth by the appellant(s) that Smt. Bismilla was subjected to medico-legal examination, after three days of the accident. There is no explanation on the record that what abstained the appellant(s) for not subjecting Smt. Bismilla to medico-legal examination, promptly.

Learned Tribunal, while scrutinizing the statement of PW-1 Umar Mohd., brother of deceased and author of FIR, has rightly observed that this witness never testified that at the time of accident, he had jotted down the registration number of the offending vehicle. Therefore, how he came to know about the registration number of the offending vehicle has gone unexplained on the file, which otherwise proves that respondents No. 1 and 2 have connived with the appellant(s) to claim compensation falsely.

Smt. Bismilla, during her examination testified that she is an illiterate lady. Therefore, she had not seen the registration number of the offending vehicle. The Investigating Officer, who investigated the case was also not examined by the appellant(s). All these above mentioned

circumstances have rightly weighed in the mind of the Tribunal, to reject claim petition of the appellant(s).

I have carefully gone through the impugned Award and find no illegality or perversity in the same.

Dismissed.

August 27, 2019
rishu

(RAMENDRA JAIN)
JUDGE

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