

FAO No.6773 of 2016

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

FAO No.6773 of 2016
Date of decision: 26.09.2019

Suraj Bhan and others

.....Appellants

versus

Naveen Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

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

RAMENDRA JAIN, J. (ORAL)

Through this appeal, appellant-claimants have laid challenge to impugned award dated 30.03.2016 of the Motor Accident Claims Tribunal, Jhajjar (in short 'the Tribunal'), whereby their claim petition under Section 166 of the Motor Vehicles Act, 1988 (in short 'the Act'), claiming compensation of ₹50,00,000/- on account of death of Sube Singh in a motor vehicular death on 06.03.2014, was dismissed.

According to appellant-claimants, in the evening of 06.03.2014, deceased Sube Singh, while returning to Jhajjar on his bicycle met with an accident and succumbed to his injuries received in the accident after 22 days during treatment, caused by respondent No.1 driving his bullet motorcycle bearing registration No.RJ-13GS-9786 in a rash and negligent manner.

On these allegations, appellants, who were not legal heirs or dependent upon deceased Sube Singh, filed claim petition under Section 166 of the Act claiming compensation of ₹50,00,000/- for his death in a

FAO No.6773 of 2016

roadside accident.

The Tribunal, after holding trial, dismissed their claim petition vide impugned award dated 30.03.2016, holding that there were major contradictions in the statements of prosecution witnesses and the contents of FIR lodged qua accident in question. Thus, story put forth by the appellants qua death of Sube Singh in a motor vehicular accident was false.

Learned counsel for the appellants *inter alia* contends that the Tribunal has failed to appreciate that in FIR Ex.P1 both the words “cycle” and “motorcycle” find mentioned. Therefore, word “cycle” upon which deceased was riding at the time of accident, in consonance with statement of PW1 Bijender, ought to have been relied upon. The Tribunal has failed to appreciate that in a roadside accident, paramount consideration is always to save life of a victim and not to catch hold of the offending driver to the peril of life of the victim. Appellant-claimant No.2 though had caught hold of respondent No.1, but considering the urgency of providing medical aid to Sube Singh at the earliest without any loss of time, freed him from his clutches and proceeded to take care of injured Sube Singh lying at the spot.

Having given thoughtful consideration to the above submissions, this Court finds the instant appeal completely devoid of any merit for the reasons to follow.

PW1 Bijender is also one of the appellant-claimants. According to his deposition, he had caught hold of offending driver respondent No.1 at the spot, but according to police file, respondent No.1 was arrested on 14.03.2014 i.e. around eight days after the accident in question. This fact falsifies above story of appellant-claimant-Bijender's

FAO No.6773 of 2016

catching hold of respondent No.1 at the spot inasmuch as he did not plead in the claim petition that he had freed respondent No.1 from his clutches to provide medical aid to his uncle Sube Singh at the earliest. In case, above story would have been true, he must have pleaded this fact in the claim petition. Therefore, his above stand, beyond pleadings, has rightly been rejected by the Tribunal.

That apart, in the FIR appellant-Bijender got mentioned that at the time of accident, deceased Sube Singh was riding his motorcycle, whereas, while appearing as PW1, contrary to it, he testified that Sube Singh was riding his bicycle at the time of accident. Taking care of the above contradiction, Tribunal has rightly non-suited the appellants. It does not lie in the mouth of the appellant-claimants that since word “cycle” has also been mentioned in the FIR afterwards, therefore, the Tribunal ought to have treated statement of PW1 as corrected inasmuch as the appellant-claimants did not ever make any effort to get corrected the above alleged clerical mistake of writing word “motorcycle” in place of “cycle” in the FIR, being driven by deceased Sube Singh. They never raised any grouse about wrong mentioning in the FIR that deceased was riding a motorcycle. Therefore, appellant-claimants are estopped by their own act and conduct to change word “motorcycle” into “cycle” without any cogent and convincing evidence.

More so, had PW1 Bijender been present on the spot, his uncle deceased Sube Singh must not have been shifted by Head Constable Sushil Kumar to the hospital. Not taking his uncle Sube Singh by him to hospital requires to draw adverse inference against him that he was falsely

FAO No.6773 of 2016

introduced as a witness to the accident to extract compensation from the respondents in an illegal manner.

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

Dismissed.

(Ramendra Jain)
Judge

September 26, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No