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

**FAO No.1043 of 2018
Date of Decision: 21.02.2019**

Kamla Devi and others

Appellants

Versus

Kamal and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Dheeraj Kumar Narula, Advocate
for the appellants.

AVNEESH JHINGAN, J (Oral):

The claimants are in appeal being aggrieved of the award dated 11.10.2017 passed by the Motor Accident Claims Tribunal, Sirsa [for brevity 'the Tribunal'] whereby the Tribunal held that claimants failed to prove that Ballu Ram died due to the injuries sustained in a motor vehicular accident.

Brief facts of the case are that on 03.09.2014, Ballu Ram alongwith his grand son was returning to Sirsa after attending an animal fair at village Bhamboor. When they were standing on the main Sirsa-Rania road, they were struck by a Pick Up vehicle bearing registration No. HR-57-8596 [hereinafter referred to as

'offending vehicle']. As a result of the impact, Ballu Ram fell down and the offending vehicle ran over his legs. He was taken to General Hospital, Sirsa. FIR No. 336, dated 03.09.2014 was registered on the statement of Surender Kumar. Ballu Ram remained hospitalized from 03.09.2014 to 09.09.2014 and again from 03.04.2015 to 07.04.2015 and died on 07.04.2015.

Heard learned counsel for the appellants, perused the paper books and relevant documents produced by him.

Learned counsel for the appellants contends that the Tribunal erred in awarding only ₹15,000/- alongwith interest @ 9% per annum for medical expenses and dismissing the claim petition by holding that the claimants failed to adduce evidence to substantiate the fact that the cause of death was due to the injuries sustained in the accident that took place on 03.09.2014. He submits that as per Ex.P-5, Ballu Ram was suffering from breathlessness and he died on the same day.

The contention raised by learned counsel for the appellants lacks merit. The motor vehicular accident took place on 03.09.2014 in which Ballu Ram sustained fractures of legs. After having the treatment, he was discharged from hospital on 09.09.2014. After almost seven months, he was again hospitalized on 03.04.2015 and he died on 07.04.2015. It has come on record that he got admitted in the hospital on 03.04.2015 and it was diagnosed that he was suffering from Tuberculosis from last six months. No Doctor has been examined by the claimants to show

that the fractures sustained in the legs were the cause of death. Moreover, the post-mortem was not conducted, in such circumstances, the appellants failed in establishing their case.

No shadow can be cast upon the findings recorded by the Tribunal in the impugned award.

The appeal is dismissed.

[AVNEESH JHINGAN]
JUDGE

February 21, 2019
pankaj baweja

1. Whether speaking/ reasoned

:

Yes
2. Whether reportable

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Yes