

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-7177-2018

Date of Decision : 05.12.2019

Jasbeer Kaur and othersAppellants

VERSUS

Kuldeep Kumar and others Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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Present: Mr. Rajinder Singh Rana, Advocate
for the appellants.

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MANJARI NEHRU KAUL, J.

The instant appeal has been preferred against the impugned order dated 11.07.2018 passed by the learned Motor Accident Claims Tribunal, Kurukshetra, whereby the claim petition of the appellants under Sections 166/140 of the Motor Vehicles Act, 1988 was dismissed by holding that they had failed to prove that the accident in question leading to the death of Harbhajan Singh had been caused by respondent No.1-Kuldeep Kumar who was driving the offending tractor trolley (hereinafter referred to as the offending vehicle).

A few facts as pleaded in the petition by the appellants may be noticed. On 14.10.2017 when Harbhajan Singh (since deceased) was going on his motorcycle to his village a tractor trolley bearing registration No. HR-08S-7051 being driven by respondent No.1 without any indication or blinkering of its rear lights struck against the motorcycle of the deceased.

Resultantly, Harbhajan Singh fell down and sustained multiple injuries including grievous injuries. The accident was witnessed by one Kulwant Singh. It was alleged that the accident had been caused due to the rash and negligent driving of the offending vehicle by its driver i.e. respondent No.1. Subsequently, Harbhajan Singh succumbed to his injuries and a case bearing FIR No. 534 dated 15.10.2017 under Sections 279, 304-A IPC was registered at Police Station Pehowa. The appellants thus claimed a compensation to the tune of Rs.40,00,000/- from the respondents i.e. the driver, owner and insurer of the offending vehicle.

In the joint written statement filed by respondents No. 1 and 2 it was submitted that the offending vehicle was not involved in the accident and in fact a concocted story had been put forth by the appellants to extract money from them. Respondent No.3-Insurance company in its written statement alleged that respondent No.1 was neither the driver nor did he have any driving licence at the time of the alleged accident and in fact the offending vehicle had been driven in violation of the terms and conditions of the insurance policy. It was further alleged that a false claim petition had been filed by the appellants in collusion with respondents No. 1 and 2 to extract money from the insurance company.

From the pleadings of the parties, following issues were framed:-

1. Whether the accident, resulting into death of Harbhajan Singh took place due to rash and negligent driving of respondent No.1, while driving tractor-trolley bearing registration No. HR-08S-7051? OPP
2. If issue No.1 is proved, to what amount of compensation the

petitioners are entitled and from whom? OPP

3. Whether there was violation of terms and conditions of the insurance policy and respondent No.3 is not liable to pay any compensation? OPR-3

4. Relief.

In support of her case, Jasbeer Kaur, widow of Harbhajan Singh, examined herself as PW1 and Kulwant Singh i.e. eye-witness to the accident, was stepped into the witness box as PW2 besides tendering other relevant documents.

Respondents No. 1 and 2 tendered copy of the insurance policy as Ex.R1, copy of driving licence as Ex.R2 and copy of the registration certificate as Ex.R3 and thereafter closed the evidence. Respondent No.3- Insurance company also examined Pawan Kumar as RW1.

I have heard the learned counsel for the parties and perused the evidence and other material on record.

A perusal of the copy of FIR reveals that the complainant- Gurmeet Singh, on whose statement the FIR was registered, had stated that on the fateful day of accident he received an information that his son-in-law Harbhajan Singh (since deceased) had met with an accident with an unknown vehicle. He had died on the spot and hence he was asked to reach LNJP Hospital, Kurukshetra. PW2 Kulwant Singh, the alleged eye-witness to the accident in question, seemingly comes across as an unreliable witness inasmuch as he stated during his cross-examination as PW2 that his statement was recorded on 15.10.2017 i.e. on the next day of accident and that too when he was on his way back to Kurukshetra, he saw a number of persons gathered at the spot. Hence, on reaching the spot he told the police

officials that he had knowledge about the said accident and it is only thereafter that his statement was recorded. It is indeed very strange that if he indeed had witnessed the accident then why would he have withheld the information regarding the accident in question till the following day and it was only on seeing the people gathered that he gave out his version and other details about the accident to the police.

Hence, as a sequel to the above discussion, no interference is warranted in the impugned order dated 11.07.2018 passed by the learned Tribunal.

The appeal is dismissed.

(MANJARI NEHRU KAUL)
JUDGE

05.12.2019
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Whether speaking/reasoned
Whether Reportable:

Yes / No
Yes / No