

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

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1. FAO No. 1633 of 1992
Date of decision : 14.2.2020

Vinay Kumar

.....Appellant

Vs.

Azad Singh and others

.....Respondents

2. FAO No. 1481 of 1993

Virender Singh and another

.....Appellants

Vs.

Azad Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Parveen K. Kataria, Advocate, for the appellant(s)

Mr. Kulbir Dalal, Advocate, for respondent No.1

None for respondent No.2

Rajbir Sehrawat, J. (Oral)

This order shall dispose of above mentioned two appeals. The award challenged in both the appeals is common.

For convenience, the facts are being taken from FAO No. 1633 of 1992. This is the appeal filed by the claimants; challenging the award dated 4.9.1992, passed by Motor Accidents Claims Tribunal, Sonapat, whereby the claim petition filed by the appellants was dismissed.

The brief facts giving rise to the present appeals are, that the appellant had filed a claim petition alleging that on 11.1.1990 at about 10.30 a.m., Dhajja Ram was passing through the Industrial Area Road on a scooter,

bearing Registration No. DBL-6982. He was driving the scooter at very slow speed. However, when he reached near cremation ground, he took turn towards railway crossing. In the meantime, the offending Jeep bearing Registration No. HRX-8006, came from the opposite side, being driven in a rash and negligent manner by respondent No.1, and struck against the scooter of Dhajja Ram. Dhajja Ram sustained injuries in the accident and became unconscious. He was taken to Hindu Charitable Hospital, Sonapat, where he ultimately succumbed to the injuries. At the time of death, age of the deceased was 60 years. He used to earn about Rs.2500/-from tuition and Rs.1500/-as pension; being a retired teacher. Besides this, he used to supervise the agriculture work and used to earn Rs.17,000/- to Rs.18,000/-per annum. Accordingly, a claim petition of Rs.3 lakhs, in total, was filed.

It deserves to be noticed that at the initial stage, the claim petition was filed in the name of injured Dhajja Ram himself through his next friend. However, after his death, his sons had stepped into the petition as his LRs and the claimants.

The respondents filed written statement asserting that the accident was never caused by the alleged driver Azad Singh. In fact, deceased Dhajja Ram was knocked down by some other vehicle. Azad Singh-respondent No.1 was on his official driving duty and was carrying Ved Prakash Pruthi, Commercial-cum-Tele-Communication Officer, Karnal in official vehicle. When Ved Prakash Pruthi saw the old man lying on the road in an injured condition, he picked him up and put the injured in the jeep and thereafter, took him to Hindu Charitable Hospital, Sonapat. The injured was got admitted there by helping him on humanitarian ground. However, subsequently the claimants

have falsely implicated the driver of the official vehicle; namely Azad Singh.

To prove their assertions qua the accident, the claimants examined the eye witness Bhagwan Singh as PW3 and another eye witness Ruldu Ram as PW5. PW3 Bhagwan Singh deposed that; at the relevant time; he was going from Industrial Area side towards Railway Crossing on a scooter and saw that one jeep bearing registration No. HRX-8006, belonging to the Telephone Department, was also going from Railway Crossing side towards Industrial Area and the same struck against scooter of Dhajja Ram. As a result of which he fell down and became unconscious. Similarly, the other alleged eye witness Ruldu Ram also deposed that he does the work of Sweeper. At the relevant time, he was carrying out the work of sewer. He had also deposed that jeep of the respondents Government Department was involved in the accident.

On the other hand, respondent Azad Singh-driver and Ved Prakash Pruthi appeared in witness box on behalf of the respondents and deposed to the effect that deceased was already knocked down by some other vehicle and on humanitarian ground they had lifted him from the place of accident and got him admitted in Hindu Charitable Hospital, Sonapat.

After appreciating the respective evidence of the parties, the Tribunal dismissed the claim petition on the ground that it has not been established on record that the accident was caused by the jeep of respondent Department, which was being driven by Azad Singh. Hence, the present appeals have been filed.

While arguing the case, learned counsel for the appellants has submitted that the eye witnesses have duly been examined and they have consistently named the jeep of the respondents as involved in the accident.

Therefore, the Tribunal has wrongly dismissed the petition filed by the appellants.

On the other hand, learned counsel for the respondents has submitted that although the appellants have examined two witnesses, however, both the witnesses are made up witnesses. The Tribunal has rightly found their testimonies as not believable. None of them have shown as to how they were present at the spot. Still further, it has come on record that besides being chance witnesses, both the alleged eye witnesses are the neighbourers of the claimants. Therefore, they are nothing but interested witnesses created by the claimants. Hence, the Tribunal has rightly dismissed the petition filed by the appellants.

Having heard learned counsel for the parties, this Court does not find any substance in the arguments of learned counsel for the appellants. Although the appellants have examined two alleged eye witnesses, however, it has come in their testimonies that they are neighbourers of the claimants. None of these witnesses have explained as to how he was present on the scene of occurrence at the relevant time. Obviously, these were the made up witnesses created by claimants. Therefore, the Tribunal has rightly disbelieved their testimonies. Not only this, PW3-Bhagwan Singh has not even denied the fact that it was respondents Azad Singh, driver and Ved Prakash Pruthi, the Officer of the Department, who had taken the deceased to the hospital in a jeep. However, he has submitted that he had gone to the hospital on cycle and got the deceased admitted there. In view of these deposed facts, it is not probable that when PW3 Bhagwan Singh was a witness to the accident, he would not accompany the injured in the jeep despite being his neighbourer. The record

also does not show that the injured was, in fact, got admitted to hospital by PW3-Bhagwan Singh.

In addition to this, this Court finds that the Tribunal has rightly recorded that there is no reason to disbelieve the version of the Officer of the Department, who was traveling in the jeep at the relevant time and who has even entered into the witness box to face the cross examination. This witness has duly deposed that he had seen the injured being hit by some other vehicle. When they reached near the spot, since the deceased was lying on the road in an injured condition, they had taken the injured to the hospital on humanitarian ground. The aspect of the driver and the officer of the Department taking the injured to the hospital; is also corroborated by the witnesses of the claimants themselves. Hence, there is no reason to disbelieve the testimonies of the respondents.

In view of the above, this Court does not find any illegality or perversity with the award passed by the Tribunal. Hence, finding no merit in the appeals, the same are dismissed.

A photocopy of this order be placed on the file of the connected case.

(RAJBIR SEHRAWAT)
JUDGE

14.2.2020
Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No