

In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 9248 of 2014

Date of Decision: 08.01.2020

Neelam Chopra and Others

... Appellant(s)

Versus

Jagdish Ram Saini and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Jagram Singh Cooner, Advocate
for the appellants.

Mr. Subhash Goyal, Advocate
for respondent No.3.

Anil Kshetarpal, J.

It is an unfortunate case where inspite of death of late Prem Parkash Chopra in a motor vehicular accident, the driver and offending vehicle could not be traced.

Claimants filed a claim petition for award of compensation on account of death of late Prem Parkash Chopra on 16.1.2011. The learned trial Court, on appreciation of evidence, has recorded following findings:-

“20. On perusal of file, it transpires that Mandeep Chopra, son of deceased Prem Parkash Chopra while appearing as PW2 has stated that on 16.11.2011, he along with his brother was following the TVS Scooty No. CH-03-5003 of his father on their motor cycle. He stated that accident took place in their presence. The FIR was got lodged by him. However, from the perusal of summoned trial Court file as well as rukka Ex.RA it

transpires that dead body of Prem Parkash Chopra was taken to hospital by one Hitesh Pahwa who has been examined by the accused i.e. respondent No.1 as DW1. The name of deceased came to the knowledge from the driving licence being carried out by deceased. Hitesh Pahwa in his testimony before learned trial Court deposed that he has no knowledge that who had caused the accident. Out of humanity, he lifted the injured and took him to hospital in his car, however, said injured en-route died. From his testimony and rukka Ex.RA, it is clear that if PW2 along with his brother was following the TVS scooty of their father, then they would have taken him to the hospital and there was no need to search the body of deceased to find some documents to know about his identity. His name would have been disclosed on the rukka itself. Thus, presence of PW2 at the time of occurrence is falsified from rukka Ex.RA coupled with the testimony of Hitesh Pahwa. Furthermore, PW1 herself admitted that she was not present at the scene of occurrence. Thus, there is no evidence or witness to prove that respondent No.1 drove the Canter/Truck being registration No. HR-68-A-5351 rashly or negligent or that accident has taken place from the Canter/Truck of the respondent No.1.

21. *Moreover, claimants have claimed that age of the deceased at the time of accident was 52 years whereas her wife when stepped into witness box as PW1 during her cross-examination admitted that her date of birth is 23.11.1949. It is*

admitted by PW1 and PW2 that age of that deceased was 3-4 years elder to PW1 meaning thereby the age of deceased was 64 years on the date of accident. Thus, even qua the age, the claimants have intentionally made false averment. Furthermore, PW2 is working as a driver and getting ₹ 6,500/- per month being person of young age, then how come deceased who was 64 of age could earn ₹ 10,000/- for same profession. Thus, it appears that contents of FIR Ex.P1 were manipulated in such a manner so that they could raise handsome compensation, but claimants failed to prove negligence on the part of respondent No.1.”

In view of the aforesaid findings, claim petition was dismissed.

This Court has, with the able assistance of learned counsel for the parties, examined the requisitioned record of learned Motor Accident Claims Tribunal. Ex.RA is a communication sent by Causality Medical Officer, Accident & Emergency Department, General Hospital, Sector 16, Panchkula, according to which the deceased was brought dead by Hitesh Pahwa. His name and telephone numbers have been mentioned in Ex.RA. As per the note on Ex.RA, identity of late Prem Parkash Chopra has been established from his driving license.

As noticed above, it is the case of the claimants that late Prem Parkash Chopra was travelling on a separate vehicle followed by his two sons, namely Manish Chopra and Mandeep Chopra on a separate vehicle and they were witness to the alleged motor vehicular accident. FIR was got registered by Manish Chopra. He has not appeared in evidence to depose.

Mandeep Chopra has appeared as PW.2 and stated that he had taken his father to Government Hospital, Sector 16, Panchkula in a Maruti Car and signed admission papers in the hospital. However, the record speaks otherwise. The claimants have not produced any record to prove that sons of the deceased had got him admitted in the hospital. The learned Motor Accident Claims Tribunal, on appreciation of evidence, has recorded a finding of fact. Such finding is not established to be suffering from any error or perversity.

Hence, no ground is made out to interfere.

Dismissed.

(Anil Kshetarpal)
Judge

January 08, 2020
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No