

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

119

FAO-2925-2020(O&M)  
Date of Order: 23.08.2021

NEW INDIA ASSURANCE CO LTD.

..Appellant

Versus

SUNITA AND ORS

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Paul S. Saini, Advocate,  
for the appellant.

Mr. Vikram Jeet Singh, Advocate  
for respondent No.1 to 4.

**ANIL KSHETARPAL, J(Oral)**

The hearing of the case was held through video conferencing  
on account of restricted functioning of the Courts.

With the consent of learned counsel for the parties, the hearing  
of the appeal is preponed to today. Taken on Board for final disposal.

**Main**

The insurer assails the correctness of the award passed by  
Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as “the  
Tribunal”) on 12.12.2019, while allowing the claim petition under Section  
166 of the Motor Vehicles Act, 1988, filed for grant of compensation on  
account of death of late Sh. Kesar Lal in an automobile accident which took  
place on 27.10.2018.

Some facts are required to be noticed.

The widow, aged mother and two minor children of late Sh. Kesar Lal filed the claim petition under Section 166 of the Motor Vehicles Act, 1988. It was asserted that at about 09:15 pm when late Sh. Kesar Lal reached near Mann Dhaba, Village Nawagran, in the meantime, a Maruti Car bearing registration No.PB-49-9161 came from back side in a rash and negligent manner and hit in the motorcycle driven by late Sh. Kesar Lal from the back side. The car was driven by the respondent Ram Pal. Due to the impact, late Sh. Kesar Lal fell down along with his motorcycle and received multiple grievous injuries. He was taken to Charitable Hospital, Kukkar Majara, but due to his serious condition, he was referred to Civil Hospital, Nawanshahar. The attendants took Kesar Lal to IVY Hospital, Nawanshahar, where he succumbed to the injuries. The FIR in question was registered by Sh. Lal Chand, cousin of the deceased. On 02.11.2018, Sh. Rajinder Kumar contacted the Police and stated that he is the eye-witness of the accident. The Police after investigation presented the final report against him. Rajinder Kumar appeared as PW-2 and supported the case of the claimants.

The learned Tribunal on appreciation of evidence, found out that the evidence led by the claimants is trustworthy and can be relied upon while rejecting the deposition of Ram Pal RW-1, the owner and driver of the vehicle in question. Thus, the Tribunal awarded a sum of Rs.19,60,000/- along with interest at the rate of 7% per annum.

This Bench has heard the learned counsel for the parties and with their able assistance perused the paper book.

The learned counsel representing the appellant submits that Rajinder Kumar did not take the deceased to the hospital. He further

contends that Rajinder Kumar neither called the Police and instead is stated to have left the place of accident. He submits that the aforesaid conduct proves that PW-2 is a planted witness.

The learned counsel for the appellant has read over the statement of Rajinder Kumar as well as Ram Pal during the hearing of the appeal. Sh. Rajinder Kumar has stated that he was passing through the area at the time of the accident. He witnessed the accident and stopped his vehicle but as he was in a hurry because of his son's ill health, for that reason, he left.

In the present case, Ram Pal, the driver and owner of the offending vehicle has appeared as RW-1. He has denied the accident. The learned counsel representing the appellant contends that the claim petition was filed due to collusion and connivance of the claimants and Ram Pal.

On the other hand, the learned counsel representing the respondents contends that the insurer has failed to substantiate its assertions with regard to collusion and connivance between the claimants and Ram Pal. He further contends that Sh. Rajinder Kumar is not related to the claimants. He further contends that the deposition of Rajinder Kumar is natural and in spite of lengthy cross-examination, the appellant failed to impeach the credibility of Rajinder Kumar.

In the present case, this Bench is of the considered view that the appellants have failed to make out a case for interference on account of the following reasons:-

- 1). The insurer has not led any evidence to prove collusion and connivance of the claimants and Ram Pal. Ram Pal has deposed that no accident has taken place.

- 2). Rajinder Kumar is not proved to be related to the claimants. No doubt, he left the place of the accident as his son was not well and he neither called the Police nor took the deceased to the hospital, however, that itself is not sufficient to disbelieve his statement in the absence of corroboration.

Moreover, Rajinder Kumar went to the Police on 02.11.2018, and given a statement that he was an eye-witness to the accident. During his cross-examination, the witness explained that as and when he came to know that Kesar Lal has died, he went to the Police Station and made a statement.

- 3). The Tribunal has, on appreciation of the evidence, returned a finding of fact which cannot be interfered with in absence of material to prove that such finding of fact arrived at by the Tribunal is wrong.

The next argument of the learned counsel representing the appellant is with regard to the acquittal of Ram Pal in a criminal case.

In this regard, it may be noted that for holding an accused guilty, the prosecution is required to prove the case beyond the shadow of reasonable doubt, whereas, before the Tribunal, the claimants are required to prove their case on preponderance of evidence. Furthermore, the judgment passed by the Court while exercising criminal jurisdiction is not binding on the Tribunal. The Tribunal is required to decide the case on the basis of evidence produced. In the present case, Rajinder Kumar has successfully faced searching questions put by learned counsel representing Insurance Company during his cross-examination.

Keeping in view the aforesaid facts, no ground is made out to

interfere with the findings arrived at by the Tribunal.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

August 23, 2021  
nt/ay

(ANIL KSHETARPAL)  
JUDGE

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No