

131 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
AT CHANDIGARH
(In virtual Court)

FAO No.468 of 2021 (O&M)
Date of Decision: 29.06.2021

United India Insurance Company Limited

.....Appellant

Versus

Salima and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Vikas Mohan Gupta, Advocate
for the appellant.

RAJBIR SEHRAWAT, J. (ORAL)

This is an appeal filed by the insurance company challenging the award dated 12.02.2021 passed by the Motor Accident Claims Tribunal, Patiala (for short, the Tribunal) whereby an amount of Rs.18,78,600/- has been awarded to the respondents-claimants on account of death of Taleeb @ Tamil.

The brief facts, as mentioned in the award are that on 01.11.2018 Yakub Ali and the deceased Taleeb @ Tamil had gone to Pinjore for sale of rings and stones. When they were returning on their motorcycle bearing registration No.HR-75B-2625 then at about 1.50 PM their motorcycle was hit by a car make Toofan @ Cruiser bearing

registration No. HR-56-6700, which came from the side of Shambu barrier. The said vehicle was being driven by the driver rashly and negligently. Due to impact of collision, the deceased fell down on the road and he suffered multiple grievous injuries. Taleeb @ Tamil was got shifted to hospital at Rajpura where he was declared brought dead. With these allegations, FIR No.131 dated 02.11.2018 was registered under Sections 279, 337, 304-A and 427 IPC at Police Station Shambu. On these facts, the claim petition involved in the present appeal was also filed; claiming therein that the deceased was 28 years of age. He had been earning Rs.40,000/- per month by sale of rings and stones. Accordingly, an amount of Rs.50 Lakhs was claimed as compensation. In that petition, the above said amount of compensation was awarded by the Tribunal. Hence, the insurance company is in the present appeal.

Solitary argument of learned counsel for the appellant is that the claim petition was collusive in nature. To substantiate this argument, learned counsel for the appellant has referred to the documents led in evidence before the Tribunal, which are the copies of the FIRs registered in other accident cases; where one Kesar Singh was consistently involved either as owner or driver of the vehicle involved in alleged accidents in those of the cases. Hence, the argument of learned counsel for the appellant is that Kesar Singh had been habitual of fabricating collusive accident cases so as to get compensation for the claimants; for a consideration for himself. To connect the said Kesar Singh to the present case, learned counsel for the appellant has submitted that in the present case also the driver and the owner of the vehicle involved in the case were produced before the police

by none other than Kesar Singh. Hence, the collusion in filing the claim petition has to be presumed by the Court. Learned counsel for the appellant has referred to the testimony of the alleged eye witness Yakub Ali as well as testimony of above said Kesar Singh, who was produced as RW-1 by the insurance company. Referring to their statements, learned counsel for the appellant has submitted that the eye witness has failed to produce the medical record showing injuries to him, although, he had asserted the injuries to himself in the alleged accident. This shows that he was not an eye witness. Still further, it is submitted by learned counsel for the appellant that Kesar Singh had admitted before the Tribunal as having been involved in the FIRs which have been placed on record in the present case. Hence, it is submitted by learned counsel for the appellant that the insurance company is not liable to pay the compensation; because the claim petition was collusive in nature.

Having heard the argument of learned counsel for the appellant and after perusing the record, this Court does not find any substance in the argument of learned counsel for the appellant. It is not even in dispute that the vehicle involved in the present case has no connection, whatsoever, with RW-1 Kesar Singh. Therefore, merely because of the fact that he might have produced the owner and driver of the offending vehicle before the police; for one reason or the other, would not be sufficient to presume the collusiveness in filing of the petition; as having been fabricated by Kesar Singh. There is nothing brought on record by the insurance company that Kesar Singh got any pecuniary benefit out of the compensation awarded in the present case. Rather being involved in several accident cases and having

repeated acquaintances with the police could be a natural factor which might prompt the driver of the offending vehicle in the present case to take Kesar Singh with him to police in the hope of some help from the police. Also, merely because Kesar Singh has been involved in some other collusive cases would not, necessarily, turn the present case also as collusive in nature. The appellant-insurance company was required to bring a specific evidence qua the collusiveness in filing the petition, if any. Such an evidence is totally missing in the present case. Although, Kesar Singh has been produced as a witness in the present case by none other than the insurance company, yet even from his testimony nothing can be extracted to substantiate the claim of the petitioner being collusive in nature.

Hence, his testimony does not support the case of the insurance company.

Learned counsel for the appellant-insurance company has submitted that the eye witness has not produced the medical record qua the injuries suffered by him; and this shows that he is not the eye witness in the case. This argument is also liable to be noted only to be rejected. It is not in dispute that the eye witness Yakub Ali is not the claimant in the present case for raising a claim qua injuries suffered by him. Therefore, merely because his own medical evidence has not come on record is not fatal to the case of the claimants. This is particularly so because the eye witness Yakub Ali, while appearing as witness before the Tribunal; has specifically deposed qua the accident involved in the matter and also to the fact that he also had suffered injuries in the said accident. Nothing more could be extracted by the insurance company in the cross-examination of this witness

to falsify the claim of the claimants or to substantiate the assertion of the insurance company that Yakub Ali was not the eye witness of the case.

No other point was raised.

In view of the above finding, no merit in the present case, the same is dismissed.

The statutory amount deposited by the insurance company for filing the present appeal be transferred to the concerned Tribunal for disbursement to the claimants, in accordance with law.

(RAJBIR SEHRAWAT)
JUDGE

29.06.2021
sandeep

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