

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

ASHOK KUMAR  
2021.11.12 15:27  
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FAO-569-2021 (O&M)

FAO-572-2021 (O&M)

Date of decision: 11.11.2021

THE NEW INDIA ASSURANCE COMPANY LTD ..Appellant

Versus

ANURADA AND ORS

..Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Deepak Suri, Advocate for the Insurance Co.

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**ANIL KSHETARPAL, J (Oral)**

By this order, FAO No.569 and 572 of 2021 filed by the Insurance Company assailing the correctness of the award passed by the Motor Accidents Claims Tribunal, Hisar, while allowing the claim petitions filed under the Motor Vehicles Act, 1988, shall stand disposed of.

Unfortunately, in a motor vehicular accident, late Sh. Jagbir Singh and Shakuntla lost their lives. In order to prove the accident, Smt. Sunita appeared as PW2 before the Tribunal. She is sister of late Sh. Jagbir Singh. She has stated that she was travelling along with late Sh. Jagbir Singh in the same car. The Tribunal, after appreciating the evidence produced, has found out that the claimants have successfully proved the fact that the accident took place due to rash and negligent driving of Rajesh Kumar son of Sube Singh, the owner cum driver of car No.HR-48-A-2835.

Learned counsel representing the appellant does not challenge the quantum of compensation. However, he contends that Smt. Sunita cannot

be said to be an eye witness as she noticed the accident only after it had taken

place. He draws attention of the Court to the cross examination of Smt.

Sunita, which reads as under:-

“I and my brother Jagbir were residing at separate places we were coming from Bhiwani to Hansi via Jui and I had boarded the car at Jui to meet our sister at village Dhani Sakri near Hansi. I had boarded the car at 12:30 from Jui. I can not tell the distance covered by us when accident took place. The accident took place prior to Jamalpur. The width of the road was about 25 feet of two vehicles can cross each other easily. The road is straight at the place of accident. The incoming car was noticed from a distance of 15-20 feet. No other vehicle was seen coming and going at that time. I only realised the accident when it had taken place I was conscious after the accident. Our vehicle was completely damaged in accident, but I did not noticed the damaged of other vehicle. We remained at the place of accident for about 5 minutes. My brother and his wife and mother were shifted to the hospital in ambulance, while I was shifted in a car, which was passing by. I can not tell the number of said car. I was alone in said car with driver. I can not tell the name of driver of the car. I was treated at GH Bhiwani. I have not brought my treatment record today. Police never met me in connection with the accident, nor produced before me. The driver of offending car for identification. I never moved any application before any higher police officials stating that I am the eye witness to occurrence. The accident had taken place by the side of the road. It is wrong to suggest that I did not witness the accident and that I have been introduced as witness later on. It is wrong to suggest that the deceased received injuries due to their own negligence and that respondent No.1 was not negligent in causing the accident. It is wrong to suggest that I have filed a false affidavit being the close of petitioner or that I am deposing wrongly.”

Learned counsel for the appellant submits that once Smt. Sunita admits that she realized the happening of an accident after it had taken place, due to this reason, she cannot be said to be an eye witness.

It is well settled that a particular sentence in the deposition of

witness cannot be read in isolation from the entire statement. Smt. Sunita while submitting her affidavit in lieu of examination in chief has specifically stated that she was travelling in the same vehicle along with late Sh. Jagbir Singh. Even in cross examination, she has reiterated the aforesaid version. The statement of Smt. Sunita cannot be read in the manner suggested by learned counsel representing the appellant. Once it is proved that she rode the same vehicle that met with an accident, there can be hardly any doubt about her presence. Moreover, Insurance Company failed to point out that she was sleeping or was not conscious at the time of accident.

Keeping in view the aforesaid facts, no ground to interfere in the award passed by the Tribunal is made out.

Dismissed.

All the pending miscellaneous application(s), if any, are also disposed of.

11.11.2021

ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)**  
**JUDGE**