

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO 2105/2020 (O&M)

Date of decision: 03.05.2023.

Smt. Santosh and another

.....Appellants

Vs.

Dharmender Singh and another

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Saurabh Dalal, Advocate for the appellants.

Nidhi Gupta, J.

Present appeal has been filed by the claimants against dismissal of their claim petition vide Award dated 14.1.2020 passed by Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal') in MACT Case No.137/2018 filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'). Claimants are widow and son of the deceased Jagdish Kumar who was 55 years at the time of his death.

Ld. Tribunal on the appraisal of facts, pleadings and evidence on record held that the accident which took place on 14.4.2018 was a hit and run case and involvement of Motorcycle bearing registration No. HR-12AF-1905 (hereinafter referred to as 'the offending vehicle') as well as rash and negligent driving on the part of respondent no.1, owner-cum-driver of the offending vehicle, was not established on record.

It is submitted by the ld. counsel for the appellants that the ld.

Tribunal was in patent error in dismissing the claim petition as appellants had

produced comprehensive and cogent evidence on record to establish the negligence on the part of respondent no.1. It is submitted that besides documentary evidence, appellants had even examined witnesses from whose testimony it was evident that the deceased Jagdish had died due to rash and negligent driving of offending vehicle by respondent no.1. It is submitted that it was pleaded case of the appellants that the deceased was on his way from Village Dighal to his home in Rohtak on his Scooty bearing registration No. HR-12-W-8334. His brother Roshan Lal and nephew Parveen were following him on the motorcycle bearing registration No. HR-12-W-2940. When the deceased reached near Jalebi Chowk on Rohtak-Jhajjar road, respondent no.1 came on offending vehicle which was being driven in a rash and negligent manner and struck against the Scooty of the deceased from behind, as a result of which the deceased fell down and suffered fatal injuries. Roshan Lal, the eye witness in this case lodged FIR No.199 dated 15.4.2018 under Sections 279 and 304-A IPC at PS Shivaji Colony, Rohtak. It is submitted that the above said Roshan Lal, eye witness had appeared as PW2 and had also submitted his affidavit in evidence as Ex.PW2/A wherein he has reiterated the above version of events. It is submitted that accordingly there was no reason to doubt the sequence of events as put forth by the appellants and the Id. Tribunal was in error in rejecting the claim petition.

No other argument has been raised.

Heard Id. counsel.

Perusal of the record of the case shows that no doubt FIR Ex.P9 was lodged on the statement of PW2 Roshan Lal the eye-witness, however, PW2 has admitted in his testimony that he came to know about the

number of the offending vehicle about 15-20 days after the accident in question.

Another purported eye-witness PW3 Monu in his affidavit Ex.PW3/A has supported the version as put forth by the appellants. However, he has also admitted that though he had witnessed the accident in question, he did not inform the police regarding the accident, nor did he make any statement and it was only upon enquiry by the police that he disclosed about the offending vehicle being a motorcycle. PW3 Monu has further deposed that he disclosed the name, address and parentage of respondent no.1 to one Mohit, who then disclosed the registration number of the offending vehicle to PW3 after 5-6 months.

Similarly, appellants had produced another eye-witness Sanjiv Barak PW4, who in his affidavit Ex.PW4/A supported the same version of events.

In my view, from the above facts it is clear that though all the above three witnesses claimed to be eye-witnesses to the accident in question, yet, in the FIR neither the registration number of the offending vehicle nor the identity of the driver/ respondent no.1 was mentioned.

It has also come on record that PW4 Sanjiv Barak had deposed that after 15-20 days of the accident he along with respondent no.1 had gone to the claimants' house to compromise the matter and it was then that the registration number of the offending vehicle and name of the driver were revealed to the claimants. However, claimant no.1, widow of the deceased has deposed that she did not know the persons accompanying respondent no.1 who visited her house for compromise - meaning she did not

know PW4 Sanjiv Barak who accompanied respondent No.1 to her house for the compromise. Simultaneously, she had contradictorily deposed that she knows PW4 Sanjiv Barak, but he had never visited her house in her presence. She has also stated that PW2 Roshan Lal, her brother-in-law, and Mohit were present at home when PW4 Sanjiv Barak came home for compromise. However, she has also stated that PW4 had disclosed the number of offending vehicle and name of the driver to PW2 Roshan Lal on the date of accident i.e. 14.4.2018 itself, at the place of accident. Contradictorily again Roshan Lal has deposed that he did not know PW4 Sanjiv Barak and never met him.

Even further, 3rd eye witness Monu had deposed that the registration number of the offending vehicle was disclosed to him by one Mohit 5-6 months after the accident. In contradiction to this testimony, PW2 Roshan Lal has deposed that Monu disclosed number of the motorcycle to his nephew Parveen. PW4 Sanjiv Barak had also deposed that he had seen the registration number of the offending vehicle on the spot. However, he did not mention anywhere about the same for about 15-20 days of the accident.

A sum total of the above contradictory testimonies casts a shadow of doubt on the story put forth by the appellants. I am in agreement with the conclusion of the Id. Tribunal that there are too many contradictions in the case put forth by the claimants which does not appear credible and does not inspire belief and can, therefore, not be relied upon. Ld. counsel for the appellants is unable to give any explanation whatsoever for the above said inconsistent and contradictory testimonies. I accordingly, agree with the conclusion of the Id. Tribunal that it was a hit and run case and claimants in order to get compensation have falsely involved the offending vehicle and its driver-cum-owner/respondent no.1 in the accident.

Dismissed.

Application(s), if any, stand disposed of.

03.05.2023.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No