

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

229

FAO-432-1995 (O&M)

Date of decision : 23.11.2023

Muni Devi and Others

.....Appellants

Versus

Madan and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the appellant

Ms. Amandeep Kaur, Advocate for
Mr. G.S. Sandhu, Advocate for respondent No.2.

Mr. Ram Avtar, Advocate for respondent No.3

AMAN CHAUDHARY, J.

1. Challenge in the present appeal has been made to the Award dated 15.03.1994 passed by the learned Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') vide which, the claim petition filed on account of death of Krishan Chand in a motor vehicular accident, by the claimant-appellants was dismissed.
2. In the ground of appeal, it has been stated that the Tribunal has committed error while dismissing the claim petition by ignoring the evidence led by the appellants. PW3 and PW4, who were the eyewitnesses, had specifically narrated the accident, in which Krishan Chand had died. The driver and owner, in their deposition, had also admitted the accident.
3. Contrarily, the learned counsel for respondent Nos.2 and 3 have opposed the present appeal by stating that the Tribunal rightly dismissed the claims of the appellants, on account of the fact that the claimants were unable to prove the accident and also they had connived with each other and coined a false

story only to get money from the Insurance Company. Therefore, the present appeal deserves to be dismissed.

4. Heard and perused.

5. It would be apposite to refer to the findings of the Tribunal as regards the accident, which read thus:

“18. Learned counsel for the claimants contended that when a person makes an admission of a fact, the court cannot give finding contrary to such admission. He contended that admission of respondents Nos.1 & 2 regarding the accident in the written statement as well as the statement of Madan RW I should be relied upon by the court and compensation should be awarded in favour of the claimants. It is true that respondent No.1 & 2 have admitted the accident. It is also true that the Insurance Company has alleged collusion in between the claimants and respondent No.1 & 2. In view of the facts brought on record of this case, I find that respondent Nos. 1 & 2 are in collusion with the claimants and as such the admission about the accident by them either in written statement or in the witness box cannot bind the Insurance Company.

19. As discussed above I find that the claimants have failed to prove as to how the accident had taken place, and they have failed to prove which was the vehicle and who was the driver of such vehicle responsible for death of Krishan. Respondent No.1 & 2 cannot be held liable for payment of compensation and respondent No.3 Insurance Company cannot be asked to indemnify the owner and driver of vehicle in respect of the compensation amount.”

6. An inspection of the award, reveals that the claimant-appellants had concocted the case only to obtain compensation. The Tribunal has rightly recorded that statement of PW3 Harbhajan Singh, who was stated to be an eye witness, cannot be believable as the accident in question was during night time and on GT Road, there might be number of vehicles but nobody touch the motorcycle and the dead body. PW4 Devinder Singh in his statement recorded that the motorcyclist was ahead of the tractor-trolley and when it hit by left front hand front wheel of tractor, the he fell down on extreme kacha portion of the left side of the road, but from the photographs Ex.R2 and R-3, it stood falsified. No doubt, the criminal

case has no impact on the claim petition, but in the FIR case, the police had filed untrace report. Moreso, the admission by the owner and driver in their statements, also makes the case doubtful, which has been rightly observed by the Tribunal, while dismissing the claim petition.

7. Fraud and justice never dwell together.
8. In view of the above, this Court finds no infirmity or illegality in the impugned award dated 15.03.19945 passed by the Tribunal. Consequently, the present appeal, being bereft of merit, is hereby dismissed.

23.11.2023
gsv/M.Kamra

(AMAN CHAUDHARY)
JUDGE

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