

R-893

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

**FAO-3514-2018 (O&M)
Date of decision : 07.02.2023**

Mamta & Ors.

... Appellant(s)

Versus

Raj Kumar & Ors.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amandeep Singh, Advocate for the appellants.

Mr. Rajbir Singh, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

The present appeal has been preferred against the award dated 25.01.2018 passed by the Motor Accident Claims Tribunal, Jhajjar vide which the claim petition filed by the claimant-appellants has been dismissed.

Learned counsel for the claimant-appellants would contend that the eye-witness – PW3 – had specifically stepped into the witness box and had deposed regarding the accident and the rash and negligent manner in which the offending vehicle was being driven. It is further the contention that the Tribunal, on the basis of conjectures and surmises, has dismissed the claim petition holding that the Bullet motorcycle is amongst the heaviest motor-cycles of India and hence, the Honda Amaze car which received no damage, could not have been involved in the accident.

Per contra, learned counsel for respondent No.3 has vehemently contended that there is no scope of remand in the present case

inasmuch as a well-reasoned order has been passed by the Tribunal.

Heard.

In the present case, the eye-witness had specifically stepped into the witness box as PW3 and stated regarding the factum of the accident and the rash and negligent manner in which the offending vehicle was being driven. It is trite that the cases under the Motor Vehicles Act, 1988 are to be decided on the touch-stone of preponderance of probabilities. It has also been brought to the notice of this Court during the hearing that the challan has been presented against the driver of the offending vehicle and the trial is pending. The Tribunal, purely on the basis of conjectures and surmises, has arrived at a conclusion that the Honda Amaze car could not have been involved in the accident and the said conclusion not sustainable in law.

Accordingly, the award is set aside. The matter is remanded to the Tribunal to decide afresh on merits, in accordance with law. Since the accident in the present case pertains to the year 2016, the Tribunal is requested to expedite the hearing of the case. The parties are directed to appear before the Tribunal on 28.02.2023.

Disposed off accordingly. Pending applications, if any, also stand disposed off.

07.02.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO