

FAO No. 1735 of 1993

1

2024:PHHC:050761

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

121

FAO No. 1735 of 1993

Date of Decision: 16.04.2024

Satbiri and others

.....Appellants

Versus

Inder Singh (Now deceased) through his LR's and ors.Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. S.K.Bansal, Advocate
for the appellants.

Ms. Pearl Narang, Advocate for
Mr. Priyavrat Parashar, Advocate
for respondent No. 1(b) and 1(d).

Mr. Aman Bhari, Addl. A.G., Haryana.

Mr. Pardeep Goyal, Advocate for
respondent No. 3-United India Insurance Company.

SUVIR SEHGAL, J.(ORAL)

1. Claimants are in appeal before this Court assailing award dated 30.07.1993 passed by the Motor Accidents Claim Tribunal (for short 'The Tribunal'), Sonapat, whereby a petition filed by them under Section 166 of the Motor Vehicles Act, 1988 has been dismissed.

2. Brief facts may be noticed. Appellants, who are the legal heirs of Randhir Singh filed a claim petition pleading that their predecessor was driving a scooter and was on his way to Gohana. Babu Ram was sitting on the pillion when the scooter was hit by a Haryana Roadways bus. It has been pleaded that the bus was being driven in a rash and negligent manner by respondent No. 1-Inder Singh (deceased) and as a result of the accident, both

scooter riders sustained injuries and Randhir Singh died while being taken to

the hospital. It has been averred that the bus belongs to Haryana Roadways-respondent No. 2 and was insured with respondent No. 3- United India Insurance Company. The claim petition was contested by the respondents by filing response. The accident was denied by the respondents. On the basis of the pleadings of the parties, the Tribunal framed issues and after the evidence was led, vide impugned award, claim petition was dismissed.

3. Counsel for the appellants has made a detailed reference to the testimony of Babu Ram-PW2 to urge that the accident took place with the bus which was being driven negligently and Randhir Singh died as a result of the accident. Counsel for the respondents has, however, supported the award passed by the Tribunal.

4. I have heard counsel for the parties and considered their respective submissions.

5. In their evidence before the Tribunal, the claimants had produced two witnesses i.e. Satbiri (PW-1) who is the widow of the deceased and Babu Ram (PW-2) who claims to be the pillion rider of the scooter which met with the accident. The ocular testimony of Satbiri does not support the averments qua factum of accident as she was not present at the spot. Insofar as the evidence of Babu Ram is concerned, although he has stated that an accident took place, but neither the medical record nor the Post Mortem Report (PMR) of the deceased has been produced and exhibited to establish that he succumbed to the injuries sustained due to the vehicular accident. Furthermore, there is no evidence to show that the scooter was damaged in the alleged accident. Still further, in his cross-examination Babu Ram (PW-2) has admitted that he had been injured and was taken to the hospital for treatment, but he has not produced any medical record. Another

after completing investigation in the FIR (Ex.PA), the investigating agency presented a cancellation report before the Magistrate which was accepted and the FIR was cancelled. Undisputedly, Babu Ram, who was the complainant of the FIR, did not file any protest petition.

6. Keeping in view all the above facts and circumstances, this Court is satisfied that the accident, as alleged, never took place and there is no ground to interfere with the finding recorded by the Tribunal.
7. Finding no merit in the appeal, it is hereby dismissed.

16.04.2024

Rajeev (rvs)

(SUVIR SEHGAL)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

Yes