

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1680 of 2004 (O&M)
Date of Order:04.04.2024

Smt. Babli and others

.Appellants

Versus

Ram Pal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Surinder Singh Walia, Advocate
for the appellants.

Mr. Ashwani Verma, Advocate, for respondent no.1.
Mr. Vinod Gupta, Advocate, for respondent no.2.

ANIL KSHETARPAL, J

C.M.No.5668-CII-2024

1. For the reasons stated in the application, which is supported by an affidavit, the delay of 31 days in filing the application for restoration of the appeal is condoned.

2. CM application stands disposed of.

C.M.No.5669-CII-2024

3. For the reasons stated in the application, which is supported by an affidavit, the same is allowed and the appeal is restored to its original number while recalling the order dismissing the appeal for non-prosecution.

4. With the consent of the learned counsel representing the parties, the appeal is taken on Board for final disposal.

MAIN

5. This is the claimants appeal against the award passed by the Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal') while dismissing their claim petition under Section 163-A of the Motor

Vehicle Act, 1988.

6. Upon appreciation of the evidence, the Tribunal has concluded that the claimants have failed to prove involvement of Eicher Tractor bearing registration No.HYF-1199.

7. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed

8. Sh. Siri Chand, who was working in a private factory is stated to have died in the accident which took place on 22.01.2002, at 5.30 p.m near Tohana-Ratia Road. It is the case of the claimants that the tractor-trolley bearing registration no.HYF-1199 being driven by respondent no.1 in rash and negligent manner came from back side and while overtaking the tractor caused accident resulting in death of Sh. Siri Chand. It is stated that respondent no. 1 ran away from the spot along with his vehicle. The entire occurrence was seen by Sh. Major Singh and Sh. Dalip Kumar, who also reached at the spot.

9. The claim petition was contested by respondent nos.1 to 4. Their consistent stand is that no accident took place with the tractor in question. Respondent no.1 was working as driver and he has never worked with Market Committee, Ratia as driver. A false case has been registered against respondent no.1.

10. The FIR was registered on the statement of Sh. Dalip Kumar, the alleged eye witness. While registering the FIR he did not disclose its registration plate number. He also did not step into the witness box. Sh. Major Singh entered into the witness box as PW2 and stated that he witnessed the accident but thereafter he went for attending his shop which is hardly 1½ Kms. away from the place of accident. After 15 days he

suddenly appeared before the police and claimed that he has witnessed the accident. The Tribunal has found that the testimony of Sh. Major Singh is not believable.

11. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

12. The learned counsel representing the appellant has read over the cross-examination of Sh. Major Singh, who appeared as PW2. He states that he was walking behind the deceased when the accident took place. Thereafter, he did not take any step but went away without even attending the deceased, who had suffered grievous injuries. He admits that there was no damage to the tractor and trolley. Apart from the aforesaid deposition, the claimants have not produced any evidence to connect the tractor-trolley.

13. The learned counsel representing the appellant submits that the FIR was lodged by the police and the challan was presented against respondent no.1. He submits that registration of FIR and presentation of final report is sufficient to prove the accident.

14. This court has considered the submissions of the learned counsel representing the parties.

15. The full form of the FIR is 'First Information Report'. Any person is entitled to lodge FIR which is information given to the police with regard to a cognizable offence. The police is bound to register such information. Before registration of the FIR, the police is not expected to carry out any investigation. Moreover, the final report submitted under Section 173 Cr.P.C is the conclusion arrived at by a police official upon completion of the investigation. However, the accused cannot be convicted merely because a final report has been submitted. The final report is subject

to scrutiny by the court which has the ultimate authority to decide about the correctness of the case put forth by the prosecution. Hence, the FIR as well as the final report unless corroborated by the cogent evidence cannot be made basis to fasten liability.

16. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

17. Dismissed.

18. All the pending miscellaneous applications, if any, are also disposed of.

April 04, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO