

Neutral Citation No: 2024-PHHC-105030



FAO-1837-2004(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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FAO-1837-2004(O&M)
Decided on:09.08.2024

Kailasho Devi and others

.... Appellants

Versus

Mukhtyara and others

.... Respondents

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. R.S.Budhwar, Advocate and
Ms. Jyoti Chahal, Advocate
for the appellants.

SANJAY VASHISTH, J.(Oral)

1. Instant appeal has been filed by the appellants-claimants against the award dated 08.01.2004, passed by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal'), whereby MACT case No. 47 of 2002 has been dismissed.

2. Claimants, who were related as wife, Children and mother of deceased-Jasmer Singh, pleaded in their claim petition that on 19.08.2001 Jasmer Singh-deceased was going to village Roshanpura in Tractor bearing No. HR-07E-3367, driven by Dhanpat Singh. Deceased-Jasmer Singh was sitting on the mud-guard of the Tractor, when an animal suddenly appeared in front of the Tractor, its driver-Dhanpat Singh lost control and the Tractor turned turtle, resulting into multiple injuries to Jasmer Singh and Dhanpat Singh. Dhanpat Singh succumbed to the injuries on 20.08.2001 and Jasmer

Singh succumbed to the injuries on 31.08.2001.



3. Respondents No. 1 to 6 (owners of the Tractor) pleaded that accident was not caused due to the negligence of Tractor driver because its driver lost control on account of *Neelgae* suddenly appearing in front of it. However, they argued that the excessive compensation is being claimed by the claimants, and pleaded for dismissal of the claim petition.

4. Respondent No.7 (United Insurance Company) denied that any such accident had ever occurred and alleged that the claim petition was a result of collusion of claimants with other respondents No. 1 to 6 to unjustly grab the money from the answering respondents. Admittedly, Insurance Company also pleaded that the driver of the Tractor was not having a valid driving license and thus, the terms of the policy stood violated.

5. After framing the issues and leading of the evidence by the parties, the learned Tribunal examined the same and concluded that as per the claim petition accident took place in the area of Village Ajrawar, falling under the Police Station Ismailabad. The Investigating Officer did not seek record from the PHC, Ismailabad, the nearest health centre, where the injured could have received immediate medical assistance as a natural factor.

6. Dr. Mrs. Archana Jindal (RW1) stated that at first instance first aid was provided to the injured at Ismailabad, however, no medical record from PHC Ismailabad or any other doctor, who provided initial medical aid was produced on record before the Tribunal. Even no such record was obtained by the Investigating Officer during the course of the investigation of his criminal case. As per DDR (Ex. P1) injured was treated in Lok Naik

Jai Parkash (L.N.J.P) Hospital, Kurukshetra and same was admitted by the



Investigating Officer-Jai Parkash(PW4). However, no record was produced by the hospital.

7. Another factor has also been noticed that deceased was referred to PGI, Chandigarh by Civil Hospital Ambala City, however in the claim petition neither said fact, nor the medical treatment at PHC Ismailabad and LNJP Hospital, Kurukshetra has been mentioned.

8. Broadly speaking the relevant record which was easily available in the respective hospitals/health centres has been withheld by the claimants possibly to avoid revealing the truth before the Tribunal.

9. One Suresh Kumar, who appeared as PW2 and projected himself to be an eye witness did not even mentioned the registration number of the Tractor in his statement (Ex. R1). Despite, being there in the civil hospital Ambala city for two hours, he did not bother to approach the police also. Even no corroborative evidence was found in support of his statement (Suresh Kumar PW2). Furthermore, Dhanpat Singh, had expired, but no efforts were made to record the statement of Jasmer Singh, who expired much later i.e. on 31.08.2001.

The version given by claimant in the claim petition is viewed with big doubt, particularly for the reason that the police seemed to support the claimants by recording statements, during the inquest proceedings. Therefore, learned Tribunal gave considerable weight to the fact that why the statement of Jasmer Singh was not recorded, despite his surviving for a significant period after the incident.

10. Even before this Court also, nothing substantial has been highlighted by counsel for the appellants and; had there been any such



documentary evidence, supporting the case of the claimants, there was nothing to stop the appellants from leading any evidence or additional evidence before this Court. Therefore, in the absence of any new substance available on record or having been brought by the appellants, this Court is helpless to arrive at a firm conclusion that the findings recorded by the learned Tribunal are erroneous. Consequently, confirming the view point taken by learned Tribunal, the present appeal is hereby dismissed.

09.08.2024
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[SANJAY VASHISTH]
JUDGE

Whether speaking/reasoned
Whether reportable?

Yes/No
Yes/No