

2024:PHHC:123696



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

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FAO-4084-2016 (O&M)

Date of Decision : 18.09.2024

Bedo Devi & Ors

....Appellants

VERSUS

Ram Singh & Ors

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vivek Suri, Advocate for the appellants.

Mr. Vinod Mahendru, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the claimants against dismissal of their claim petition by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal') vide award dated 11.02.2016.

2. The accident in the present case took place on 22.10.2014 with an unknown vehicle in which Harmesh Kumar (hereinafter referred to as the 'deceased') had died. FIR No.246 dated 22.10.2014 under Sections 279, 427 and 304-A of the Indian Penal Code, 1860 was also registered at Police Station Patran qua an unknown vehicle. Subsequently, after a period of 08 days, the registration number and the name of the driver were introduced. The story set up was that the name of the driver surfaced when one Bhishab Nath, who was travelling in a Tempo alongwith other people and was

passing-by witnessed the accident, made a statement before the police. Respondent Nos.1 and 2 in their written statement took a stand that a false case has been registered against them. Respondent No.3-Insurance Company in its written statement took an objection regarding the driver not holding a valid and effective driving licence. On merits, all allegations were denied. The Tribunal held that the factum of the accident was not proved with the offending vehicle and hence dismissed the claim petition. Aggrieved by the same the present appeal has been preferred.

3. Learned counsel for the appellants would contend that the FIR was registered on the same day and one Bhishab Nath had appeared in the witness-box, who was a witness to the accident, and his statement was also recorded and hence the Tribunal has erred in dismissing the claim petition of the appellants.

4. *Per contra* learned counsel for respondent No.3-Insurance Company has contended that the FIR was registered against an unknown vehicle and that in the criminal case the author of the FIR turned hostile and the accused was eventually acquitted vide judgment dated 13.07.2016.

5. Heard.

6. In the present case, Harmesh Kumar is stated to have died in a road accident that took place on 22.10.2014 within the area of Police Station Patran and the statement (Ex.R5) of Sanjay Kumar, the author of the FIR, shows that an unknown vehicle being driven by an unknown person had hit the motorcycle being driven by deceased-Harmesh Kumar. Hence, the FIR was registered against an unknown person. However, subsequently one Bhishab Nath came before HC Rajinder Singh on 30.10.2014 and stated that

he was going in a Tempo and he witnessed the accident which was caused by a car bearing registration No.DL-3CW-5650. The statement of said Bhishab Nath was recorded 08 days after the accident. The Tribunal has observed that the statements of none of the other persons travelling with Bhishab Nath in the Tempo were recorded. Bhishab Nath was not even able to tell the number of the Tempo in which he was travelling. The statement of Bhishab Nath being unreliable was not relied upon by the Tribunal and hence the claim petition was dismissed. Learned counsel for the appellants has not been able to convince this Court that the accident took place in the manner and with the offending vehicle as claimed. The findings recorded by the Tribunal are sound and liable to be sustained.

7. In view of the above, I do not find any merit in the present appeal. The same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

18.09.2024
jk

(ALKA SARIN)
JUDGE

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