

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

780

FAO-8234-2014 (O&M)

Date of Decision : 20.02.2024

ASHA RANI & ORS.

.... Appellants

VERSUS

MANPHOOL SINGH & ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sagar Aggarwal, Advocate for the appellants.

Mr. Lalit Garg, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellants against the award dated 28.05.2014 passed by the Motor Accident Claims Tribunal, Sonapat vide which the claim petition filed by the claimant-appellants was dismissed.

2. The accident in the present case had taken place on 07.04.2009 and the FIR (Ex.P-18) was lodged on 15.09.2011 by PW-2, namely, Rakesh Kumar i.e. after a period of over two years from the date of the occurrence. Even the claim petition itself was filed in the year 2012-13.

3. Learned counsel for the claimant-appellants would contend that the delay in lodging the FIR has been explained by Rakesh Kumar. It was stated by Rakesh Kumar when he stepped into the witness box that after performing his duties on 09.03.2011 he was standing on the bus stand of Village Bhatgaon. Meanwhile, one truck came from the side of Farmana and Rakesh Kumar boarded the said truck. When the said truck reached the area of Village Bagru, Tehsil and District Sonapat, a motorcyclist was lying on

the road in a roadside accident. The driver of the truck stopped his vehicle near the motorcycle and 3-4 persons also gathered on the spot and took the motorcyclist to the hospital after making arrangement for a vehicle. Thereafter, Rakesh Kumar and the driver of the said truck again started their journey for Sonapat. Rakesh Kumar narrated to the driver of the said truck that two years back his brother had met with an accident ahead of Garh Ganga near Mohammadabad. Then the driver of the said truck revealed that the said accident took place in his presence and that the deceased was wearing blue stripped shirt and blue jeans. The driver of the said truck told him that on 06.04.2009 he was driving his truck bearing registration No.HR-38Z-6231 from Karnal to Calcutta after loading potatoes and that on 07.04.2009 at about 6:00 a.m. when he had crossed Garh Ganga bridge one truck bearing registration No.HR-38J-9862 i.e. the offending vehicle was going ahead of his truck towards Gajrola side. When the offending vehicle reached near Village Mohammadabad, then the offending vehicle dashed against motorcycle bearing registration No.UK-61C-5205 and that the driver of the offending vehicle was driving the offending vehicle in a rash and negligent manner. It was further narrated that when the accident took place, the driver of the said truck stopped his truck and 3-4 vehicles had also stopped at the place of occurrence. The rider of the motorcycle had expired on the spot and the driver searched his pocket and found a mobile phone. After opening the same, many numbers were found and a call was made to one of the numbers and it was informed to the person on the other side that the owner of the mobile phone had expired in a road side accident. It was further narrated by the driver that since the truck was loaded with potatoes,

he had to leave from the place of occurrence. Rakesh Kumar is stated to have asked the driver of the truck about the driver of the offending vehicle and it was then disclosed that the driver of the offending truck was Balwan son of Harphool. On the same day Rakesh Kumar went to the Police Station along with his relatives and requested the Police to lodge an FIR.

4. Per contra, learned counsel for respondent No.3 has contended that the story put forth by the claimant-appellants is totally a set-up story as the accident had taken place in the year 2009 and the present claim petition itself was filed in the year 2012-13. The FIR was lodged on 15.09.2011 i.e. after a period of over 2 years and that the story set-up by Rakesh Kumar is totally unbelievable.

5. Heard.

6. In the present case though Balwan Singh, who was stated to be the driver of the vehicle which was following the offending vehicle, has stepped into the witness box, however, the explanation given by him seems to be farfetched and unbelievable. It is strange that Balwan Singh chose not to inform the police and left the site of the accident. It is strange that after a period of 2 years Rakesh Kumar took a lift from Balwan Singh and coincidentally after witnessing an accident, their memories were refreshed. It is further being recorded by the Tribunal that an untraced report had been filed regarding the FIR (Ex.P-18). Learned counsel for the claimant-appellants has not been able to convince this Court that the claim petition was a genuine one.

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

20.02.2024

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*