

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

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**FAO No.3023 of 2016 (O&M)**

**Reserved on : 14.07.2022**

**Date of Decision : 21.07.2022**

Krishna Devi and Others

....Appellants

VERSUS

Balvinder Singh and Others

....Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Arun Sharma, Advocate for the appellants.

**ALKA SARIN, J.**

The present appeal has been preferred by the claimant-appellants against the award dated 13.08.2015 passed by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as the 'Tribunal') whereby the claim petition filed by the claimant-appellants has been dismissed on the ground that the factum of the accident was not proved.

Learned counsel for the appellants would contend that the eye-witness of the accident namely, Ravinder Kumar, has been duly examined and he has stated that he had seen the accident taking place and that the accident occurred due to the rash and negligent driving of the driver of the truck bearing registration No.HR-37-C-3275 which was being driven in a rash and negligent manner and at a high speed.

I have heard learned counsel for the appellants.

In the present case, PW-1 namely, Krishna Devi, stated in her cross-examination that the accident did not take place in her presence. PW-2 Ravinder Kumar deposed that on 30.06.2014 in the evening hours he was going on his motorcycle bearing registration no.HR-04-D-6470 from his village to Saha side and at about 7.20 p.m., when he reached in front of

Mazaar of Peer near village Rajpura on main Saha-Shahzadpur Road, in the meantime a truck bearing registration no.HR-37-C-3275, being driven by its driver rashly and negligently, came at a high speed and hit against the motorcyclist as a result of which the motorcyclist fell down. He further deposed that he followed the truck and noted down its registration number. He, however, thereafter went to village Dhanas in Chandigarh regarding some urgent work and remained there for 12-13 days and when he came back from village Dhanas, he went to the Police Station Shahzadpur in order to know about the aforesaid accident and there he came to know that Naresh Kumar (deceased) had died in the accident and that he used to reside in village Rajpur (Galodi). It was further deposed that thereafter he informed the brother of the deceased about the registration number of the offending truck. The FIR in the present case (Ex.P1) was registered on the statement of one Vishav Pal against an unknown accused and an unknown vehicle. It is to be noted that neither Vishav Pal nor the vegetable hawker, who are stated to have had a narrow escape, were examined by the claimants.

The entire story as set up by the claimants seems rather improbable inasmuch as the person who was a witness to a serious accident and was stated to have chased the offending truck for 1½ kilometers to note down its registration number, would not inform the Police when admittedly he had a mobile phone and had been using the said mobile phone to talk to his family members from village Dhanas. There was also nothing on record to show that the brother of the deceased, on coming to know of the registration number of the offending truck from PW-2 Ravinder Kumar on 14.07.2014, made any effort to inform the Police about the factum of the accident as narrated by PW-2 Ravinder Kumar. It is trite that the claimants in

the proceedings under the Motor Vehicles Act, 1988 have to prove their case on the touchstone of preponderance of probabilities. However, in the present case the claimants have not been able to prove even remotely the factum of the accident.

In view of the above, I do not find any illegality or infirmity in the award passed by the Tribunal. The present appeal is accordingly dismissed. Pending applications, if any, also stand disposed off.

21.07.2022  
jk

( ALKA SARIN )  
JUDGE

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