

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.853 of 1995

Date of Decision.30.06.2014

Smt. Krishna Devi and others

.....Appellants

Versus

M/s Chetak Transport of India and others

.....Respondents

Present: Mr. Amit Jain, Advocate
for the appellants.

Mr. Gourav Verma, AAG, Haryana

Mr. R.K. Bashamboo, Advocate
for respondent No.3.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J.

1. The appeal is against the dismissal of the petition for compensation. The FIR which was lodged soon after the accident that took place on 14.12.1990 was that the deceased was found lying on the road and he was transported by a tractor trolley that came later. The case had been registered on a statement given by one Nathu Ram who had spoken that he had been hit by unknown vehicle. The police had dropped the case as a result of untraced vehicle.

2. At the trial, one Yad Ram was examined to say that he was a personal witness of the accident and he known the involvement of the insured's vehicle. The insurance company had issued a notice and also taken summon to examine the driver Bajinder. He did not respond and

the Tribunal, therefore, thought it fit to close the evidence. The Tribunal found that the deceased himself was a police sub-Inspector and it was most unlikely that the case could have been closed as an untraced vehicle, if it was only Bajinder who was responsible for the accident. The case was put forward by the claimants that it was a case of collusion between the owner of the truck and the police that resulted in the case being closed. I cannot believe that when the deceased himself was a police Sub Inspector, it could have closed the case when there was positive evidence regarding the involvement of the insured's vehicle. The Criminal Court's records themselves had been brought to Court by the Investigating Officer. The Tribunal had pointed out that no question was even elicited from the Investigating Officer that one Yad Ram had seen the accident and whether the police had examined him. I affirm the finding of the Tribunal that it ought to have been at least suggested to the Investigating Officer by the claimants that Yad Ram had been a personal witness to the accident and elicited information whether police has made such enquiries with him and why Yad Ram's statement was not recorded. The Tribunal had also a further reasoning to take that if Yad Ram had been a personal witness to accident, he had himself admitted in his evidence that he never visited the house of the deceased although the deceased was said to be well known to him. When the case was being closed as untraced vehicle, there could have been surely an occasion with the version of Yad Ram to reopen the whole investigation and bring the guilty to book. It could also seen that the Tribunal ought not to have closed the evidence of the insurer when it had taken steps to summon the driver. It could have secured his presence and

attempted to bring out the whole truth. There are certain latches on the part of the Tribunal but on an overall consideration, I find that the Tribunal has appreciated all the relevant facts and found that it was most unlikely that the insured's vehicle was involved in the accident. I affirm the said finding.

3. I find no reason to modify the award passed by the Tribunal. The claimants' relief will be only under Section 163 of the Motor Vehicles Act to secure compensation in a hit and run case against the State from its fund constituted for the purpose. If a claim is made within 8 weeks from the date of passing of the order, the State shall take the death as resultant to hit and run case and proceed to release the compensation admissible under the scheme to the claimants with interest @9% from the date of petition till the date of payment.

4. The appeal is dismissed but with the above observations.

(K. KANNAN)
JUDGE

June 30, 2014
Pankaj*