

(1985) 04 P&H CK 0012
In the Punjab And Haryana At Chandigarh

National Insurance Company Ltd. and Another	APPELLANT
Vs	
Sant Kaur and Others	RESPONDENT

Date of Decision : 15-04-1985

Acts Referred:

Citation : (1985) 2 ACC 208 : (1987) ACJ 436

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Judgement

S.S. Sodhi, J.—The controversy in appeal here is with regard to the identity of the car and the driver thereof that caused the accident which resulted in the death of Wadhawa Singh.

2. According to the claimants, they being the widow and children of Wadhawa Singh, the deceased was walking on the Ghaggar bridge on the Ambala-Chandigarh road when the car PUN 97 came from behind and hit into him as a result of which he was knocked down and killed. The case pleaded being that the offending car was being driven by Som Nath and the accident was attributed to his rash and negligent driving. Som Nath on his part denied that his car had caused any such accident. The Tribunal however, accepted the claimant's version and awarded Rs. 18,000/- as compensation to the claimants.

3. The accident in the present case took place on July 26, 1978, at about 9 a.m. The first information report relating to this accident was recorded on the statement of PW 1 Krishna Ram at 9 p.m. that night. This witness has a cycle-repair shop near the Ghaggar bridge and he deposed that he was repairing a cycle when he saw a car coming from the side of Ambala at a very fast speed and hit into the deceased who was walking on his correct side of the road. He stated that after causing this accident, the car stopped and the driver was asked to take the injured to the hospital, but he threatened him and drove away. He then went to the Sarpanch who asked him to inform the police and it was thereafter that he went to the police station where his statement was recorded and the first information report Exhibit P 2 came to be recorded on the basis

thereof. The other witness to the occurrence examined by the claimant was PW 2 Sewa Singh, who came forthwith a similar version of the occurrence.

4. Som Nath on his part came into the witness-box and denied that any such accident had been caused by his car.

5. In appreciating and evaluating the evidence on record, the point to note at the very outset is that the first report of this incident was made twelve hours after the occurrence. The explanation for this delay as given by PW 1 Krishna Ram inspires no confidence. An injured person lying on the road side on a busy road would attract immediate attention in such a situation. Report to the police could not be delayed except for some special reasons. No such reasons have been put-forth in this case. Further, in the first information report, the number of the car was mentioned as 97 and it was stated that the car was of blue colour. No name or description of the driver was given except that he was of wheatish colour. This description of the driver is too vague to pin down with any certainty to Som Nath. It is admitted that the car PUN 97 was light green in colour and that it was never blue as mentioned in the first information report. In his evidence, PW 1 Krishna Ram mentioned the numbes of the offending car to be PUN 97. Then he said that it was PN 97 and when asked to write the number, he wrote PUC 97.

6. It has also come on report that Som Nath was arrested in this case about four months after the accident, i.e. on December 2, 1978. No identification parade was ever held to establish the identity of Som Nath as being the driver of the offending car.

7. Such being the circumstances appearing from the evidence on record, it would not be safe to hold that the accident in the present case was caused by the car PUN 97 or by any car driven by Som Nath. The finding on the issue of negligence as recorded by the Tribunal cannot, therefore, be sustained. The award of the Tribunal, must accordingly be set aside.

8. In the result, this appeal is hereby accepted while the cross-objections are dismissed. In the circumstances, however, there will be no order as to costs.