

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1256 of 1993 (O&M)
Date of Decision: May 15, 2015

Jit Singh

...Appellant

Versus

Surinder Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ashok Bector, Advocate
for the appellant.

Mr.T.S.Rai, Advocate for
Mr.S.S.Swaich, Advocate
for respondent No.1.

Mr.Rohit Goswari, Advocate for
Mr.Vinod Chaudhary, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Appellant Jit Singh has filed this appeal against respondents Surinder Singh, owner and driver and Oriental Insurance Company, Insurer, challenging the impugned Award dated 21.04.1993 passed by learned Motor Accident Claims Tribunal, Ropar (hereinafter referred to as 'Tribunal'), vide which the claim petition filed by the appellant was dismissed.

The brief facts of the case are that on 19.03.1989, claimant-appellant Jit Singh was coming on cycle from Kharar side towards Chandigarh after doing his duty. Kartar Singh was also

accompanying him. Surinder Singh, owner of scooter bearing registration No.CHS-5884 struck his scooter into the cycle of the claimant and caused injuries to him.

On the other hand, the case of the respondent-Insurance Company is that claimant colluded with Surinder Singh, owner of the scooter and made false claim. In fact, Surinder Singh was abroad since 1988.

Following issues were framed:-

“1. Whether the accident in question in which the claimant sustained injuries, was the result of the rash and negligent driving of vehicle No.CHS-5884. OPA

2. Whether claimants are entitled to compensation, if so to what amount and from whom. OPA

3. Whether the petition is within time. OPR

4. Relief.”

Learned Tribunal after appreciating the evidence, dismissed the claim petition by holding that the accident as well as the negligence has not been proved.

Notice of motion was issued and respondents appeared through their respective counsel and contested the appeal.

I have heard learned counsel for the parties and have gone through the record.

From the record, first of all, I find that in this case, there is no FIR, even, the DDR has not been got recorded regarding the accident. There is no document on record till filing of the claim petition on 16.03.1990 to show that accident has taken place with the Scooter

of Surinder Singh. Learned Tribunal has discussed the evidence in right perspective by holding that neither there is any FIR, nor DDR nor there is any MLR to show that the injuries have been suffered in a road accident. In the claim petition, name of Kartar Singh as eye witness has been mentioned whereas the claimant examined AW-2 Harnek Singh as eye witness. The name of Harnek Singh as eye witness has not been mentioned in the claim petition. The Tribunal has also found that Kartar Singh has not been examined nor his address has been mentioned in the claim petition. Further, as per the version given in the claim petition, claimant was going on cycle from Kharar to Chandigarh and Surinder Singh came from Chandigarh side. Respondent-driver and owner, in the written statement, admitted the accident but pleaded that he was going from Ropar to Chandigarh when the claimant struck his cycle with his scooter, which means that the version given in the claim petition as well as version given in the written statement of respondent-driver and owner, are entirely two different versions. Even if the medical record produced by the claimant is considered, in no way, it will prove that the injuries are suffered by the claimant in the road accident and secondly, will not prove that accident has taken place on 19.03.1989 and further, with the scooter of Surinder Singh and also that the accident has occurred due to rash and negligent driving of Surinder Singh.

Keeping in view the evidence on record, I find that the Tribunal has correctly dismissed the claim petition by holding that claimant failed to prove that accident in question was result of rash

and negligent driving of the Scooter by Surinder Singh.

Therefore, finding no merit in the present appeal, the same is dismissed.

May 15, 2015
Vgulati

(INDERJIT SINGH)
JUDGE