

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.386 of 1993 (O&M)
Date of Decision: July 07, 2015

Ram Babu through his LRs

...Appellant

Versus

Hoshiar Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sudhanshu Makkar, Advocate
for the appellant.

Mr.Parmod Parmar, Advocate
for respondents No.1 and 2.

Respondent No.3-ex parte.

INDERJIT SINGH, J.

Appellant-claimant Ram Babu through this LRs has filed this appeal against Hoshiar Singh, driver, Sheo Chand, owner (now deceased) and United India Insurance Company Ltd., Insurer of tractor bearing registration No.HYB-6290 (offending vehicle), challenging the impugned Award dated 01.12.1992 passed by learned Motor Accident Claims Tribunal, Bhiwani, (hereinafter referred to as 'Tribunal'), vide which the claim petition filed by the claimant was dismissed.

Notice of motion was issued and learned counsel for respondents No.1 and 2 appeared and contested the petition.

Respondent No.3 was proceeded against ex parte.

The brief facts of the case are that claimant Ram Babu filed the claim petition against Hoshiar Singh, driver, Sheo Chand, owner and United India Insurance Company Ltd., Insurer of tractor bearing registration No.HYB-6290 (offending vehicle) under Section 166 of the Motor Vehicles Act, 1988, for grant of compensation regarding the injuries suffered by him. It is stated in the claim petition that claimant was one of the members of marriage party. The said marriage party started from village Mandoli Lakhnan and Daryapur on different tractors. Claimant was also there in the trolley attached to one of the tractors. The trolley attached to one of the tractors got detached as a result of which, the claimant sitting on the trolley fell down and immediately thereafter the tractor of respondent-driver passed over the body of the claimant causing crushed injuries to the claimant and he suffered 95% disability. The claimant alleged that he used to earn ₹2000/- per month by doing business. Following issues were framed:-

- “1. Whether Ram Babu sustained any injuries due to rash and negligent driving of the tractor No.HYB-6290 by respondent No.1, if so its effect?OPP*
- 2. If issue No.1 is proved, to what amount of compensation, the claimant is entitled to and from which of the respondents?OPP*
- 3. Whether the Insurance Company is absolved from liability to pay the amount?OPR*
- 4. Relief.”*

Claimant examined himself as PW-1 and PW-2

Dr.M.R.Sapra.

Learned Tribunal, after going through the evidence on record, decided issue No.1 against claimant holding that Ram Babu did not sustain any injury due to rash and negligent driving of the tractor by respondent-Hoshiar Singh. To prove this issue, Ram Babu appeared as PW-1 and there is no other corroborative piece of evidence. In this case, no FIR has been got registered regarding the accident against the driver of the offending vehicle. There is no other document on the record to show that the accident has taken place due to the rash and negligent driving of offending vehicle. The claim petition has been filed on 04.08.1990 and the accident is stated to be of 28.02.1990. There is no DDR nor any complaint or representation has been made to anybody that the police is not registering the FIR.

Furthermore, no witness from the marriage party or from the tractor trolley in which the claimant was travelling, has come into the witness box to support the version of the claimant and to prove that accident has taken place as stated by the claimant due to the rash and negligent driving of offending vehicle by respondent-driver. The claimant has stated in the cross-examination that there were about 60-70 persons in the trolley in which he was travelling but he cannot tell the number of the tractor trolley in which he was going. In his statement, he has stated that trolley in which he was going, got detached and turned turtle. He could not say as to who was the owner of that trolley. He also stated that he cannot give the name of the driver of the tractor trolley and he never tried to find out the same till date. If 60-70 persons were travelling in the trolley along with the

claimant and the trolley after detaching from the tractor turned turtle, then it is not possible that no other person had suffered injuries. But no such evidence has been produced and no other such injured person was brought to the witness box. Therefore, mere oral statement of the claimant regarding the rash and negligent driving of offending vehicle by Hoshiar Singh, cannot be believed. The claimant failed to lead cogent evidence to prove the negligence and the claimant has also failed to prove that he sustained injuries due to the rash and negligent driving of the offending vehicle by Hoshiar Singh driver. Therefore, his claim petition has been rightly dismissed by the Tribunal. The mere fact that claimant sustained injuries and was treated, will not prove rash and negligent driving of respondent Hoshiar Singh nor it will prove that accident has taken place as deposed by the claimant. Otherwise also, no cogent reason has been given as to why the matter was not reported to the police for registration of the FIR.

Keeping in view the above discussion, I find that the findings given by the Tribunal are correct, as per law and do not require any interference from this Court.

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

July 07, 2015
Vgulati

(INDERJIT SINGH)
JUDGE