

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

**FAO No.2392 of 1995
Date of decision: 28.10.2015**

Rajinder Kumar

....Appellant

Versus

Ved Parkash and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vijay Kumar, Advocate
for Mr. Sanjay Mittal, Advocate
for the appellant.

Mr. Ashwani Talwar, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant against the award dated 22.07.1995, passed by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide which his claim petition was dismissed.

The brief facts of the case are that on 01.07.1994, Sunita aged four years daughter of Subhash Chand was proceeding towards the fields in her village Surana, Tehsil Narnaul, in the company of her grandfather, namely, Ram Singh. When they were on their way, a vehicle bearing registration No.RJ-02-P-0353, came from the side of Narnaul being driven at a high speed in a zig-zag manner and it hit Sunita from behind. As a result of which,

she received injuries. The vehicle in question was driven by respondent No.1-Ved Parkash and Rajinder Kumar was also sitting on that vehicle, who had also received injuries.

In this regard, FIR No.264 dated 01.07.1994, in respect of the accident in question, was got registered at Police Station Narnaul.

The MACT Case No.55 of 1994 was filed by Sunita minor through her mother Smt. Naresh Devi and MACT Case No.56 of 1994 was filed by Rajinder Kumar. Both the claim petitions i.e. MACT Case No.55 of 1994 and MACT Case No.56 of 1994, were consolidated vide order dated 09.05.1995.

As per the testimony of PW-1, Dr. Dinesh Podar, Sunita was examined by him and two other doctors of Civil Hospital, Narnaul. Sunita became handicapped to the extent of 15% as mentioned in the Certificate Ex.PA and Rajinder Kumar became handicapped to the extent of 30% as mentioned in the Certificate Ex.PB. According to Dr. Naresh Kumar Garg, PW-2, he had medico legally examined Sunita on 01.07.1994 and had found three injuries on her person as mentioned in copy of MLR Ex.PC, whereas he had found only one injury on the person of Rajinder Kumar as mentioned in the copy of MLR Ex.PD.

Ram Singh, grandfather of Sunita (eye-witness) appeared as PW-4 and deposed that on 01.07.1994, he was going from his house in village Surana to his tubewell located in the same village

across the Narnaul-Rewari road and that at about 07:30 a.m., when they had crossed the road and were on its kacha portion, a four wheeler TATA 407 bearing registration No.RJ-02-P-0353, had came from the side of Ateli, which was being driven rashly and negligently and had hit Sunita who was standing with him holding fingers of his right hand. Rajinder Kumar also appeared as PW-5 and has supported his case to the effect that the accident in question had occurred due to the rash and negligent driving of the offending vehicle by Ved Parkash.

Ultimately, on the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident was caused on account of rash and negligent driving by Ved Parkash-respondent No.1. Thus, the Tribunal has rightly returned the finding on Issue No.1 in favour of the claimant-Sunita and against the claimant-Rajinder Kumar.

The claim petition of the claimant-Sunita was accepted by the Tribunal and a sum of Rs.55,000/- was awarded as compensation on account of injuries sustained by her along with future interest at the rate of 12% per annum from the date of filing of the petition till its realization.

However, while dismissing the claim petition of claimant-Rajinder Kumar, it has been recorded in the FIR that the offending vehicle was coming from Ateli to Narnaul and in the deposition of Rajinder Kumar he has specifically stated that he had

gone to Narnaul for making some purchases and after completing his job he was returning to his village from Narnaul in the vehicle driven by Ved Parkash. There is discrepancy in the statement of Rajinder Kumar, in the claim petition he has mentioned his village as Khatripur, District Mahendergarh, whereas in the Handicap Certificate, he has mentioned that he is a resident of Phatni, Fatehpur. So, in view of the contradictions made with regard to the fact that the offending vehicle was coming from Ateli to Narnaul, whereas the claimant-appellant was travelling back from Narnaul to Ateli, the claim petition of Rajinder Kumar has rightly been dismissed by the Tribunal. There is no evidence which requires interference with the abovesaid finding of the Tribunal.

Accordingly, the present appeal is hereby dismissed.

(RITU BAHRI)
JUDGE

28.10.2015

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