

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

**FAO No.1877 of 1996 (O&M)
Date of Decision: February 23, 2015**

Surjit Singh

..Appellant(s)

Versus

State of Haryana & others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes

Present: Mr. Jagdish Marwaha, Advocate
for the appellant.

Mr. Kapil Bansal, DAG, Haryana.

ANITA CHAUDHRY, J.

1. This is the claimant's appeal seeking modification of the award dated 05.12.1995, passed by the Motor Accident Claims Tribunal, Kurukshetra (here-in-after referred to as the Tribunal).

2. It would be useful to refer to the facts first. Surjit Singh claimant was going to Delhi in a Maruti Van on 29.06.1994. A Haryana Roadways Bus driven by respondent no.2 came from the opposite direction and hit the van.

3. Respondents no.1 & 3 took the plea that the bus was proceeding from Karnal to Chandigarh and when it had

reached Pipli, a truck was going ahead of the bus and the truck driver suddenly applied brakes. The road was slippery and the bus skidded towards the right, hitting the van which was coming from the opposite direction. It was urged that driver of Maruti Van also made a statement in this regard to the police that the bus driver was not at fault and had later filed a petition seeking compensation.

4. The Tribunal deliberated on the issue to find whether the bus driver was negligent. The Tribunal found that it was raining that day and the bus driver was not at fault.

5. The Tribunal noted that there was a disability of 15% and in terms of Section 140 of the Motor Vehicles Act, a claim of Rs.25,000/- was allowed which was payable by respondents no.1 & 2.

6. The submission on behalf of the appellant is that the Tribunal had misread the evidence and the respondents had taken contradictory stand in the written statement. It was urged that the claimant had suffered a disability of 15% and had lost two teeth and only a sum of Rs.25,000/- has been allowed. My attention was drawn to the written statement filed by respondents no.1 & 3 and the written statement filed by respondent no.2. It was urged that the disability should have been assessed keeping the income into consideration and several bills were available on record which were not considered. It was further contended that the respondents had tried to play fraud and had come up with a compromise

deed Mark R-2 to show that a sum of Rs.6,000/- had been received by the claimant but the document does not bear the signatures of the claimant and that amount was paid to Shamsheer Singh who has no connection whatsoever with the claimant.

7. The submission on the other hand was that DD report had been lodged by the claimant and the claimant was a Government employee and he himself had mentioned that it was drizzling and the bus skidded and no-one was at fault and wanted no action to be taken by the police but before the Tribunal, he made a different statement and the question was whether such a statement could have been accepted. It was urged that there was no disability certificate and the bills on the record were not more than Rs.879.20 Ps.

8. Surjit Singh while appearing in the witness box had deposed that the accident occurred when the driver of the offending bus was overtaking another vehicle and he applied brakes to stop his van but the bus hit his vehicle. He stated that he has suffered fracture in the right leg and two of his teeth were broken. He tendered in evidence two documents Mark-A & Mark-B to show that x-ray examination was got done. He also introduced copy of the DDR and had stated that the police had not recorded his statement correctly and the accident occurred on account of negligence of Zile Singh. He denied the statement recorded by the police. He denied that the matter had been compromised and he had received

Rs.6,000/- from Zile Singh or that amount was received by Shamsheer Singh, his relative.

9. The claimant had stated that Kulwant Singh, Raghbir Singh and one Gurdev Singh were accompanying him. They were not examined. A perusal of the statement of Dr.Narinder Kumar PW2 refers to the injury and that a plaster was affixed. He stated that there was no shortening of leg but the claimant was suffering difficulty while walking on uneven ground. In the cross-examination he stated that there was a permanent disability of 15%. He stated that the treatment given to Government official in the Government Hospital was free. He stated that he could not give exact disability qua the whole body but then added it would not be less than 15%.

10. Zile Singh, Driver PW-2 stated that he was traveling that morning when he started from Karnal to Chandigarh and there was a truck ahead of him and when he reached Pipli, a truck going ahead suddenly applied brakes and he had to apply sudden brakes and the vehicle skidded and went to the other side and hit the van and it was an act of God and he was not at fault. He stated that he had not been challaned by the police.

11. From the above, it is found that there are allegations and counter allegations but the crucial statement is the statement given by the claimant to the police after the accident where he completely exonerates the bus driver. The claimant turned around and made a different statement in the

Court. He did not examine the persons who were traveling with him that day. So in the light of this, it is difficult to accept his statement and the Tribunal had rightly rejected it. The claimant had failed to prove that the accident occurred on account of negligence of the bus driver.

12. So far as the injuries are concerned, there is no disability certificate. The claimant had failed to show the period he had remained on leave. The claimant did not produce the leave record. It would have been easy for him to summon the leave record. The bills on the file are only to the tune of Rs.879.20Ps. There is no evidence that the claimant had sustained a fracture. The x-ray reports were not produced and were not even put to the doctor. The Tribunal had allowed Rs.25,000/- on account of no fault liability and I have no reason to take a different view.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

February 23, 2015
sunil