

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

FAO No.268 of 2003 (O&M)

Date of decision: 22.09.2015

Kuldeep Singh

.....Appellant

Versus

Amarjeet Singh and another

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Nitin Goyal, Advocate,
for the appellant.

for Mr. Atul Jain, Advocate,
for respondent No.1.

Ritu Bahri, J.

Claimant-appellant has come up in appeal against the Award dated 19.10.2002 passed by the Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal'), whereby claim petition filed by the claimant-appellant under Section 166 of the Motor Vehicle Act, has been dismissed on the ground that the accident in question could not be proved, even though the FIR (Ex.PX) had been registered. .

In brief, the facts of the case are that on 04.06.2001, claimant was going from village Julkan to Dundi Majra on a scooter bearing registration No. PB-11K-2721. His father-Parkash Singh was following him on a separate scooter. When they reached near turning of village Chhana, a Jeep bearing registration No. RRC-9922, being driven by respondent No.1- Amarjeet Singh in a rash and negligent manner came from the opposite side and struck against the scooter of claimant-appellant, as a result of which, the appellant fell on the ground and sustained injuries on left thigh and other part of the body. This accident was witnessed by Parkash Singh and Bhag

Singh. Scooter of the claimant-appellant was badly damaged in the aforesaid accident. The accident had taken place due to rash and negligent driving of aforesaid Jeep by respondent No.1. Thereafter, he filed a claim petition before the Tribunal seeking compensation on account of the injuries suffered by him in the aforesaid accident.

Upon notice, respondent Nos. 1 and 2 filed their separate written statement and controverted the allegations levelled by the claimant.

From the pleadings of the parties, following issues were framed:-

1. Whether the claimant sustained injuries in an accident caused by respondent No.1, while driving his Jeep bearing registration No. RRC-9922 in a rash and negligent manner? OPC
2. If issue No.1 is proved, to what amount of compensation the claimant is entitled to and from whom? OPP
3. Whether the claim petition is collusive between the claimant and respondent No.1? OPR
4. Whether the offending vehicle was not insured at the time of accident? OPR
5. Whether respondent No.1 was not holding a valid and effective driving licence at the time of accident? OPR-2
6. Relief.

The Tribunal, after going through the evidence led by the parties, dismissed the claim petition on the ground of non examination of other witnesses, including father of the claimant who was an eye witness and on account of the fact that there was contradictions in the statement of Kuldeep Singh (CW-1) viz-a-viz contents of FIR (Ex.PX) qua the manner of taking place of the accident.

However, claimant-appellant had examined Dr. P.K. Singla (CW-4), who had attended the claimant immediately after the accident and proved multiple injuries in the shape of fracture of femur and both the bones of

forearms. This fact was supported by the deposition of CW-3 as well.

Learned counsel for the appellant has placed on record copy of the judgment dated 07.03.2007 (Annexure A-1) passed by the Additional Sessions Judge, Patiala, whereby Amarjit Singh-driver of the offending vehicle has been convicted in the FIR, which was registered in the present case.

Since the driver of the offending vehicle namely Amarjit Singh-respondent No.1 has been convicted in the FIR pertaining to this accident, finding returned by the Tribunal on issue No.1 is set aside and this issue (issue No.1) is accordingly, decided in favour of the claimants. It is held that Amarjit Singh-driver of the offending Jeep No.RRC-9922 was rash and negligent at the time of the accident. Since the claim of compensation has not been decided, the impugned Award/order passed by the Tribunal is set aside and the matter is remanded back to the Tribunal to assess the compensation and liability.

Parties are directed to appear before the Motor Accident Claims Tribunal, Patiala, on 19.11.2015.

22.09.2015
ajp

(RITU BAHRI)
JUDGE