

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

FAO No. 2063 of 1997

Date of Decision: 19.02.2015

Jagdish

... Appellant/claimant

vs.

Chamela Singh & Ors.

... Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. Rajbir Sehrawat, Advocate
for the appellant/claimant.**

**Mr. Kapil Bansal, DAG Haryana
for respondent No.2.**

ANITA CHAUDHRY, J.

The appellant is aggrieved with the dismissal of the claim petition and is here in appeal.

The facts as disclosed by the claimant are that he was going on a motor-cycle to his factory when Chamela Singh, Constable posted at Police Post Dujana came on a motor-cycle from opposite direction. He was under the influence of liquor and struck against the claimant by coming to the wrong side of the road. The claimant fell unconscious. He was admitted in PGI Rohtak. He had claimed to have spent Rs.1 lac on his treatment.

The claim petition was filed against the Constable and the State of Haryana. The registration number of the offending vehicle driven by Chamela Singh was not mentioned. Respondents No.1 and 2 denied the accident and pleaded that no accident had taken place. It was also pleaded that the claimant had failed to refer to the registration

number of the motor cycle.

The claim petition was dismissed in default but after it was restored, respondent No.2 filed written statement pleading that no motor cycle of the police post was involved in the accident. It was pleaded that Shiv Singh ASI had gone for investigation of the case to Jhajjar.

The Tribunal framed the following issues:-

- “1. Whether Jagdish petitioner sustained injuries as a result of the accident which took place on 8.3.90, within the jurisdiction of PP Dujana due to rash and negligent driving of motor cycle bearing No. Nil, belonging to the police department, Haryana, driven by Chamela Singh respondent No.1?OPP*
- 2. If issue no.1 is proved, to what amount of compensation, the petitioner is entitled to and from whom?OPP.*
- 3. Whether the claim petition is barred by time?OPD.*
- 4. Relief”*

The Tribunal gave a finding on issue N.1 against the claimant and the claim petition was dismissed.

I have heard both the sides and perused the case file.

The submission on behalf of the claimant is that he had fallen unconscious after the accident and was carried to the hospital by his brother Gopi and he had made a statement in the Court, which was wrongly rejected. It was urged that the father of the claimant had given a complaint Ex.P2 to the police which was received by Shiv Singh ASI and the hospital record was produced to show the

admission on 08.03.1990. It was urged that non recording of the FIR is no ground to doubt the case. It was urged that the claim petition had been dismissed solely because the claimant had stated that Krishan son of Bagga has taken him to hospital whereas PW2 has stated that he took him to the hospital and the contradiction was not enough to deny compensation.

Supporting the judgment, the submission on behalf of respondents was that the claimant had disclosed the number of the offending vehicle six years after the claim petition was filed and they had not mentioned the registration number of the vehicle driven by Chamela Singh. It was urged that the claim petition was dismissed as contradictions had appeared in the evidence and the statement of claimant was silent regarding the involvement of any motorcycle or that Chamela Singh was the driver. It was urged that there was no evidence that Gopi Ram had shifted the injured to the hospital and the claim petition is silent with respect to the time of accident. Continuing with the arguments, it was urged that log book had been produced to show that Shiv Singh ASI and Chamela Singh had gone for the investigation of the case relating to the Police Post Dujana and the case was false. It was contended that Shiv Singh stepped into the witness box. The application Ex.P2 was not put to him and no application had been given to the police.

The Tribunal after examining the evidence had given a detailed reasoning rejecting the story put forth by the claimant. The claimant did not name the driver or the registration number of the

offending vehicle. He had explained that he had fallen unconscious. According to him he was shifted to the hospital by Krishan son of Bagga. The admission record was not summoned by the claimant. The reasons are obvious. His name would not have figured in the records. Krishan son of Bagga was not examined, instead Gopi Ram PW2 real brother of the claimant stepped in to depose in favour of the claimant. The claimant could not prove that Gopi Ram was witness to the accident. There is no explanation as to why he did not lodge any report. After six years the claimant's witness had provided the details of the motor cycle in the Court.

The Tribunal has exhaustively dealt with every piece of evidence produced by the claimant and had rightly rejected the same. There is no reason to take a different view.

Dismissed.

19.02.2015

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**(ANITA CHAUDHRY)
JUDGE**