

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

**FAO No.2428 of 2000 (O&M)
Date of Decision: 28.07.2015**

Ram Dev Singh

.....Appellant

Versus

Jit Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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| 1. Whether Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporters or not? | |
| 3. Whether the judgment should be reported in the Digest? | Yes |

Present:- Mr. Vijay Sharma, Advocate,
for appellant.

Ms. Suman Jain, Advocate,
for respondent No.2.

SHEKHER DHAWAN, J

Appellant has filed the present appeal against award dated 10.08.1999 by Motor Accident Claims Tribunal, Patiala (hereinafter referred as 'The Tribunal') whereby the claim petition filed by claimant-appellant was dismissed.

2. Relevant facts of the case that appellant-claimant had filed claim petition seeking compensation on the ground that on 10.03.1995 he was travelling in Maruti car bearing registration No. PB-34-5400 along with Karam Chand driver of the car. The moment the car was negotiating a sharp turn, the said car went out of control and fell into a Khad about 2000 ft.

deep resulting into death of driver Karam Chand and multiple injuries on the body of claimant. Claimant claimed compensation to the tune of ₹10,00,000/-.

3. Respondents contested the claim petition on the ground that claim petition was not maintainable.

4. 'The Tribunal' after appreciating the evidence available on file dismissed the claim petition under Section 166 of the Motor Vehicles Act mainly on the ground that claimant not entitled to seek compensation because it has not been proved that accident was as a result of rash and negligent driving of the driver of the vehicle i.e. Maruti Car bearing No.PB-34-5400.

5. While arguing on these points learned counsel for appellant took the plea that it had come in the findings recorded by 'The Tribunal' that even that accident was caused due to rash and negligence act of driver of Maruti Car bearing No.PB-34-5400 as he was negotiating a sharp curve and at that time the car fell into a 2000 feet deep 'Khad' near Tatta Panni. The driver of car namely Karam Chand died on the spot. Claimant also examined Nanu Ram in support of his case. But 'The Tribunal' did not place any reliance upon testimony of this witness as he was not present at the spot. But his testimony was on the point that Karamchand had gone in the said Maruti car bearing No.PB-34-5400.

6. Learned counsel for appellant took the plea that as per FIR accident was caused due to the rash and negligent driving of the driver of Maruti car bearing registration No.PB-34-5400. Learned counsel for the appellant took the plea that 'The Tribunal' has completely ignored these facts while dismissing the claim petition.

7. However, while arguing on these points learned counsel for the respondent taken the plea that the car involved in the accident was owned by his father. Driver of car was himself negligent, so Insurance company cannot be held liable to make payment of any compensation. More so, there was absolutely no evidence on the file that accident had taken place because of rash and negligent driving as AW-2 was not in a position to depose about the manner of the accident and AW-1 was undisputedly not present on the spot and he had not seen the accident. Learned counsel for respondent prayed that claim petition be dismissed.

8. 'The Tribunal' has mainly placed reliance upon testimony of claimant Ram Dev who appeared as AW-2 and deposed that he does not know how the accident had taken place. There was absolutely no evidence available with 'The Tribunal' to return the findings that accident was because of rash and negligent driving except the pleadings of the parties.

9. Having considered the rival submissions made by learned counsel for appellant, this Court is of the considered view that 'The Tribunal' has rightly dismissed the claim petition because claimant has not been able to prove that accident was because of rash and negligent driving of the motor vehicle and that resulted into injuries to the claimant. Undisputedly AW-1 Nanu Ram specifically cross-examined and deposed that he was not having any knowledge how the accident had happened. As regard to First Information Report available with the police, it was simply recorded that from the scene of occurrence there was one Maruti car bearing No.PB-34-5400 which was coming from Parala Kashot to Nabha while negotiating the sharp curve fell in the Khad and had fallen to the depth of 2000 feet. Similarly AW-2 Ram Dev-claimant himself was not in a position

to say something about the manner of accident and in absence of that the claim petition was rightly dismissed by 'The Tribunal'.

10. Resultantly the present appeal being without any merits stands dismissed.

(SHEKHER DHAWAN)
JUDGE

July 28, 2015

msd