

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.365 of 2003
DATE OF DECISION: 10.12.2015

Balwinder Kaur

...Appellant

versus

Karambir and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.F.S.Virk, Advocates for the appellant.
Mr.N.C.Kinra, Advocate for respondent No.1.
Mr.Saurabh Mago, AAG, Haryana.

RAMENDRA JAIN, J.

As per office report, respondent No.4 has been served.

None has appeared on its behalf. It is proceeded against exparte.

According to claim petition, the claimant was travelling as a pillion rider on a motor-cycle on the fateful day i.e. March 19, 2000. The offending vehicle (bus bearing registration No.HR-45-1746) dashed against their motor cycle and caused injuries to her and the driver of motor cycle. She was shifted to Haryana Nursing Home, Urban Estate, Karnal for medical treatment. The offending vehicle was insured with respondent No.4-Insurance Company.

On appreciation of evidence, the Tribunal did not find any favour to the claim petition and rejected it on five counts.

The findings of the Tribunal are summarised as under:

- (a) There was an inordinate and unexplained delay of about three months in lodging the FIR;
- (b) No ruqa regarding alleged admission of injured was sent by the Medical Officer to the Police Station for initiation of criminal proceedings;
- (c) The claim petition was filed after a lapse of period of nine months;
- (e) No independent witness was examined.
- (f) Mere registration of FIR is not a conclusive proof.

The findings of the Tribunal are subject matter of challenge before this Court in the present appeal.

Learned counsel for the appellant contended that in view of the injuries suffered by the claimant, the learned Tribunal ought to have accepted the claim petition. The genesis of the claim petition was that the claimant was travelling as a pillion rider on the fateful day and the offending vehicle dashed against the motor cycle. Resultantly, the claimant suffered injuries. The same were supported by medical evidence proved by PW3-Dr.K.L.Sachdeva. Further more, the claimant herself appeared as PW1 and examined the driver of motor cycle, namely, Man Singh as PW2, who well proved that the claimant had suffered injuries on account of negligence of the driver of the offending vehicle. Hence, there was no reason to distrust the above evidence.

Demolishing the arguments of learned counsel for respondent No.1 submits that the findings recorded by the Tribunal are legal and valid, inasmuch as, the entire claim of the claimant is concocted and illusory story. Had the alleged accident been taken place, the claimant or somebody else had flowed against the culprit agitating the grievance before an appropriate forum promptly without wasting any time, but that is lacking credence. In order to strengthen his argument, learned counsel for the appellant has placed reliance on the judgment rendered by the trial Court in FIR No.221 dated 15.6.2000 which has been placed on record during the course of court proceedings, whereby the respondent No.1 has been acquitted vide judgment dated 5.12.2002.

Concededly, the alleged accident had taken place on 19.3.2000 and the FIR was lodged on 15.6.2000, after an inordinate delay of about three months, the very basis of the claim has been rendered doubtful. According to PW3-Dr.K.L.Sacheva, the injured has suffered injuries in a roadside accident. The aforesaid doctor in order to strengthen his version deposed that he must have sent the ruqa to the police station. However, the Tribunal came to the conclusion that there was no mention of any such ruqa in the FIR which itself speaks that the doctor had deposed without any basis in order to help the claimant. Hence, he did not come with the true version. Thus,

no reliance can be placed on the testimony of PW3-Dr.K.L.Sachdeva.

In the present case, the claimant herself appeared as PW1 and examined her husband as PW2. There is no corroboration of any independent evidence. The alleged accident has taken place at the Bus Stand, Assand in the day light around 10.30 a.m. No commuters were examined in order to show that the claimant has in fact suffered any injuries. Except the ipse dixit of the injured and her husband, there is no material available on the record to substantiate the belated lodging of First Information Report after three months and filing the claim petition belatedly after a lapse of nine months of the alleged accident. The claimant has hopelessly failed to offer any explanation, much less satisfactory one, for such inordinate delay in lodging of the First Information Report or filing the claim petition. This delay also affects the credibility of the injured and, thus, it would not be safe to rely upon the testimony of Man Singh PW (husband of the injured) being an interested witness without looking for any independent corroboration, which in this case is not at all available. The evidence of the claimant has not impressed this Court. She does not appear to be a truthful witness.

Even the statement of RW1 Karambir, the driver of the alleged offending vehicle, denying the accident has been

strengthened by the judgment of acquittal passed by the trial Court vide order dated 5.12.2002.

In view of the aforesaid discussion, I find that the findings recorded by the Tribunal do not suffer from any illegality or perversity which requires interference by this Court.

Dismissed.

December 10,2015
KD

(Ramendra Jain)
Judge