IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 4558 OF 2003(O&M)
DECIDED ON : 01.07.2015

Jarnail Singh

...Appellant

versus

Kulwinder Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. Naveen Daryal, Advocate,
for the appellant.

Mr. R. C. Kapoor, Advocate,
for respondent No.3.

K. C. PURI, J.

This is an appeal directed by the claimant against the Award dated 09.11.2002 passed by Shri A. K. Bimal, Motor Accident Claims Tribunal, Karnal, vide which the claim petition filed by the claimant under Section 166 read with Section 140 of the Motor Vehicles Act, was dismissed.

Briefly stated, Jarnail Singh-claimant filed claim petition claiming compensation to the tune of Rs.One lac on account of injuries sustained by him in a motor vehicular accident.

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Brief resume of the case is that on 09.04.1997, claimant Jarnail Singh along with other persons hired one vehicle TATA 407 bearing registration No. HR-05GA-0104. The vehicle was being driven by respondent No.1 in a rash and negligent manner. The said vehicle was loaded with leather. When the vehicle reached near village Ghaggar Majra just ahead of city Khanna (Punjab), the rear wheel of the vehicle burst. Due to that, the vehicle turned turtle. The claimant as well as other occupants of the vehicle received multiple and grevious injuries. The accident took place on account of fault on the part of respondent No.1. DDR No. 5 dated 10.04.1997 was registered in this regard. Respondent No.2-Harbans Singh was the owner of offending vehicle which was insured with respondent No.3.

Upon put to notice, respondents No.1 and 2 appeared and filed joint written statement controverting the allegations made in the claim petition and pleaded that the claimant has no locus standi to file the claim petition as the accident was an act of God. It was further pleaded that the vehicle in question was purchased from M/s Metro Motors, Ambala on 29.11.1996 and it was regularly got checked from the said shop.

Respondent No.3-Insurance Company filed separate written statement taking plea that no FIR, PMR, RC and other relevant documents were supplied. It was further pleaded that the driver of the vehicle was not holding an effective driving license.

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No replication was filed. From the pleadings of parties, following issues were framed :-

1) Whether the accident in question took place due to the rash and negligent driving of TATA 407 bearing no. HR-05GA-0104 by its driver respondent No.1 ? OPP

2) If Issue No.1 is proved, whether the claimant is entitled to receive any compensation, if so, how much and from whom ? OPP

3) Whether the claim petition is not maintainable in the present form ? OPR

4) Whether the petitioner has got no locus standi to file the present petition ? OPR

5) Whether the claim petition is bad for misjoinder and non-joinder of necessary parties ? OPR

6) Whether the claimant is estopped from filing the present petition by his own act and conduct, if so, its effect ? OPR

7) Whether the respondent No.1 was not holding a valid driving license at the time of accident, if so, its effect ? OPR-2

8) Relief.

The claimant himself appeared as PW-1 and deposed in terms of the claim petition and closed the evidence.

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No oral evidence was led by the respondents. The respondents tendered certain documents and closed the evidence.

The learned Tribunal, after adjudication, returned the findings on Issue No.1 against the claimant. Issues No.2 to 5 were decided in favour of the respondents. However, Issue No.6 was decided against the Insurance Company. In view of the finding returned on Issues No.1 to 5, the claim petition was dismissed.

Feeling dissatisfied with the Award dated 09.11.2002 passed by Motor Accident Claims Tribunal, Karnal, the claimant has preferred the present appeal.

Learned counsel for the appellant has submitted that the Tribunal has returned the findings on Issue No.1 against the appellant. It has been held by the Tribunal that the claimant has failed to prove that the accident had taken place due to rash and negligent driving of respondent No.1. It is further submitted that an application for leading additional evidence was moved before the Tribunal to place on record the copy of Award passed in the connected cases as well as medical bills, discharge slip etc., but the said application was dismissed by the Tribunal. The copy of Award dated 02.11.1999 also relates to the same accident. Issue No.2 has been decided against the appellant only on the ground that the documents have not been produced. It is further submitted that the Motor Vehicles Act has been enacted with a

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view to provide speedy remedy to the road accident victims. The Tribunal has wrongly dismissed the application for leading additional evidence. In case the documents sought to be produced by way of additional evidence are taken into consideration, in that case, the findings returned on all the issues are liable to be changed.

Learned counsel for Insurance Company has supported the Award passed by the Tribunal. It is pleaded that it is a case of no evidence. The bald statement made by the claimant is not sufficient.

I have considered the submissions made by both the sides and have gone through the records of the case.

While deciding Issue No.1, it has been held that the claimant has failed to prove that the accident had taken place due to rash and negligent driving of respondent No.1. However, the claimant has placed on record the Award dated 02.11.1999 in respect of MACT No. 54 of 1999, MACT No. 57 of 1999, MACT No. 58 of 1999 and MACT No. 55 of 1999. From the perusal of said copies of the Awards, it is revealed that the issue regarding negligence of the respondent has been decided against the driver of the offending vehicle. It is not out of place to mention here that the said Award has arisen out of the same accident. Learned counsel for the Insurance Company is fair enough to concede that the said Award has not been challenged.

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Once in four other Awards the findings regarding negligence are found against respondent No.1, in that case, the Tribunal has committed grave error by not allowing the application for leading additional evidence to produce the Award dated 02.11.1999. Further the documents regarding medical treatment of the claimants are also relevant. So, the Tribunal has committed grave error by disallowing the said application. More so, when the claim petition has been filed under the Motor Vehicles Act, which is a welfare legislation. The said Act has been enacted to provide speedy remedy to the road accident victims.

In these circumstances, the appeal stands accepted. The Award passed by the Tribunal stands set-aside and the findings given on Issues No.1 to 5 also stands set-aside. The case is remitted back to the Tribunal for deciding the matter afresh, after allowing the claimants to produce the additional evidence or any other evidence which he may deem fit. The parties are directed to appear before the Tribunal on 03.08.2015. The file of Tribunal be sent back complete in all respects, well before the date fixed.

JULY 01, 2015 **(K. C. PURI)**
shalini **JUDGE**

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