

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

FAO No.305 of 2005

Date of decision: 29.09.2015

Hans Raj

...Appellant

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajinder Pal Singh, Advocate,
for the appellant.

Mr. N.K. Sharma, DAG, Haryana,
and Mr. Ajay Sharma, DAG, Haryana,
for respondent Nos. 1 and 2.

Mr. Nonish Kumar, Advocate,
for respondent No.3.

Mr. D.K. Dogra, Advocate,
for respondent No.4.

RITU BAHRI, J.

Claimant-appellant has come up in appeal against the Award dated 20.11.2004 passed by the Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal') whereby his claim petition under Section 166 read with 163-A of the Motor Vehicle Act (for short 'the Act') seeking compensation on account of the injuries suffered by him in a vehicular accident, has been dismissed.

In brief, the facts of the present case are that on 15.08.2001,

Hans Raj-appellant was going from Mustfabad to Ambala Cantt. on his

motorcycle bearing registration No. HR-2E-3252. At about 5.30 P.M., when he reached near village Dheen, Tehsil Barara, District Ambala, a bus of Haryana Roadways bearing registration No. HR-58-8740 being driven by Ram Chander-respondent No.3 in a rash and negligent manner, came from the opposite side and struck against his motorcycle, as a result of which, the appellant suffered multiple injuries, including fracture of left elbow and joint. Thereafter, he was shifted to Civil Hospital, Mulana, from where he was referred to Civil Hospital, Ambala Cantt. Later on, he was taken to Nandra Hospital, Ambala Cantt., where operation of his left arm was done. He remained admitted in Nandra Hospital from 15.08.2001 to 29.08.2001. As per claimant, a huge amount was spent on his treatment. The accident had taken place on account of rash and negligent driving of aforesaid bus by respondent No.3. With regard to the accident, an FIR was registered on 20.08.2001. Thereafter, the petitioner filed a claim petition before the Tribunal.

Upon notice, respondent Nos.1 and 2 contested the claim of the appellant by filing a joint written statement.

Respondent Nos. 3 and 4 pleaded that at the time of alleged accident, the driver of the offending bus was not holding a valid driving license.

The Tribunal, after going through the evidence led by the parties, dismissed the claim petition. Hence, this appeal.

As per claim of the claimant-appellant, the accident in question had taken place on 15.08.2001 at about 5.30 P.M. In this regard, FIR (Ex.P/22) was registered on the statement made by Hans Raj-appellant on 20.08.2001. Hans Raj stated that after the accident, he had become

unconscious and thereafter, on regaining consciousness on 20.08.2001, his statement was recorded at 5.15 P.M. The Tribunal has observed that immediately after the accident, Hans Raj was medico-legally examined on 15.08.2001 at CHC, Mullana vide MLR No.41/CHC/TP/2001, but the said MLR has not been produced on the file by the claimant-appellant. In the MLR, it was not mentioned that the claimant was unconscious at the time of his medico-legal examination. Non production of the document has been taken to be adverse against Hans Raj-claimant to the effect that he remained unconscious from the time of accident in the evening of 15.08.2001 up till 20.08.2001. The claimant could examine the police official, who had obtained the opinion of the doctor on 16.08.2001 and 18.08.2001, to prove as to whether he was fit to make a statement or not. Gulab, brother of appellant-Hans Raj and his relative Kamal Parkash were witnesses of the accident. They made no efforts to get the FIR registered on 15.08.2001. They had taken Hans Raj in a private vehicle to Nandra Hospital, Ambala Cantt. Dr. Nandra (PW-3) did not state anything that injured-Hans Raj remained unconscious and was not in a position to make any statement from the time of accident up to 05.15 P.M. on 20.08.2001. He further did not state that Hans Raj-claimant was unable to make statement before the police on 16.08.2001 or 18.08.2001. The narration of events in the FIR (Ex.P22) to the effect that statement of Hans Raj could not be recorded on 16.08.2001 and 18.08.2001 was found to be unbelievable. Finally, the Tribunal has rightly come to the conclusion that bus No.HR-58-8740 and its driver have been falsely implicated in this case in order to get compensation.

After going through the impugned Award, this Court is of the view that the finding of the Tribunal is based on correct appreciation of

evidence led by the parties and no illegality, much less perversity, has been found therein warranting interference by this Court.

Resultantly, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

29.09.2015
ajp