

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

FAO No.4397 of 2005 (O&M)

Date of decision:24.08.2015

Nand Kishore Sindwani

... Appellant

versus

Vijay Matta and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Vikas Jain, Advocate,
for the appellant.

Mr.Paul S. Saini, Advocate,
for respondent No.2.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J.

1. The appeal is by the claimant against the dismissal of the claim petition filed before the Motor Accident Claims Tribunal. The petitioner's averment is to the effect that while he was proceeding to Ballabgarh on a scooter on 03.08.2001 and the first respondent, who was driving the scooter, was attempting to overtake the petitioner, dashed against him and sped from the place. A person, who had been travelling in the same road, one Sameer took him to the hospital, got him admitted there and went away. The son was

attending to the father immediately and on account of the prolonged treatment, he did not have any time to inform the police. Nearly 5 or 6 months after the accident, he met with Sameer and collected details about the registration number of the vehicle. The complaint was sought to be given to the police but the police refused to register a complaint. Under the circumstances, the petition had been filed claiming compensation against the first respondent.

2. The first respondent filed a reply denying the accident but at the same time also stated that the accident had taken place only on account of the negligence of the petitioner. He also disclosed that his own vehicle was insured with the second respondent-Insurance Company and if there should be any award passed, the Insurance Company shall stand to indemnify him. The Insurance Company filed a reply stating that there was no such accident at all. Apart from the fact that the FIR was not registered, even a MLR was not entered referring to the case as a case of motor accident in a public road. The Insurance Company took a plea that the first respondent was colluding with the petitioner to make possible a claim against the first respondent and transfer the liability to the Insurance Company.

3. The Motor Accident Claims Tribunal, while assessing the evidence brought by the petitioner, found that the rules of evidence cannot be strict and he will not be required to appreciate

evidence as if it were a civil court. The court also made observation of the fact that no FIR had been registered and that MLR had not been immediately registered about the motor accident on a public road would also not be strictly taken against the claimants and proceeded to examine the evidence on the basis of documents and oral evidence placed before the court.

4. While appreciating oral testimony, the court observed that it was most artificial that the person called Sameer, who was just not an illiterate person but who was graduate with management degree, could have gone from the place after admitting him without informing the family members. The court also observed that it was unnatural for such an educated person had not even made an information to the police. It also observed that if the hospital had admitted him with injuries in a road accident, it should have been normally possible to make reference about the first statement given by either the patient or a person, who had brought him. There was no reference to the fact of any accident as having taken place in a public road that resulted in the injuries. The court also made an observation of the fact that the police had not registered a complaint only because there had been no accident at all and an attempted complaint to the police nearly 5 or 6 months later on an alleged statement by Sameer was most artificial evidence.

5. When the Tribunal had set out the law correctly and was prepared to allow for examination of oral testimony of witnesses, it has made appropriate inferences. I do not think there are any better materials before me to find that the accident was true and that the first respondent's vehicle had been involved in any way. It would appear to be an act of collusion between the claimant and the respondent and the Tribunal has approached the issue correctly. I find no cause for intervention with the order. The appeal is dismissed.

(K.KANNAN)
JUDGE

24.08.2015
sanjeev