

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4442 of 2005 (O&M)
Date of Decision:24.09.2015

Lt. Col. Sandeep Rastogi

....Appellant

Versus

Jaspri Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. Puneet Bali, Advocate for
Mr. S.M. Sharma, Advocate for the appellant.

None for respondents No.1 & 2.

Mr. R.C. Kapoor, Advocate for respondent No.3-
New India Assurance Company Ltd.

NAVITA SINGH, J.

CMs No.19351-19352-CII of 2005

It has come to my notice that notice of motion was issued only in the appeal and not in these applications. Notice of the applications be issued. Mr. R.C. Kapoor, Advocate accepts notice on behalf of respondent No.3-New India Assurance Company Ltd. Notice to other respondents is not required to be issued at this stage.

For the reasons mentioned in the applications, the same are allowed and the delay in filing and refiling the appeal is condoned.

FAO No.4442 of 2005

1. The Motor Accident Claims Tribunal, Ambala (Tribunal for short) dismissed the petition filed by the appellant and the appellant filed the present appeal for reversal of the award passed by the Tribunal and for granting compensation as claimed.

2. The appellant staked a claim for compensation on account of injuries received by him in the Motor Vehicle Accident which took place on 24.3.2002. He

was going on a scooter when he was hit by a maruti car No. HR-01B-0219 driven in a rash and negligent manner by respondent No.1 from behind when the car driver tried to overtake the scooter of the appellant from the left side. The car initially hit the handle of the scooter, on which the driver of the car applied brakes and opened the door on his side. The door hit the appellant who fell down and his leg was crushed by the door of the car.

3. Counsel for the appellant argued that the Tribunal wrongly held that there was delay in lodging the FIR because that delay had not occurred on account of any fault of the appellant. His statement was recorded by one Assistant Sub Inspector in Military Hospital, Ambala Cantt. on the date of accident itself but no FIR was lodged, for which reason the appellant had to write letters to the Superintendent of Police for doing the needful. This contention is not vouchsafed from record because the FIR was lodged on 21.5.2002 and the letter Ex.P9 is written on the date of accident itself as stated. If the police had come to the hospital on the date of accident to record the statement of the appellant, where was the need for him to write a letter on the same day, remained unexplained. If the Assistant Sub Inspector had gone to the hospital after receiving the information through letter Ex.P9 and had recorded the statement of the appellant, there was no reason for not registering the case for about two months thereafter. Nothing was proved on record that the statement of the appellant was recorded in the hospital as well. Even the doctor on duty in the hospital said that information Ex.P4 was sent but when it was sent to the concerned Police Station, was not proved. The appellant was taken to the hospital by the driver and owner of the car who are father and son.

4. Counsel for the Insurance Company rightly pointed out that there was collusion between the appellant and respondents No.1 and 2 as the appellant wanted some validly insured vehicle for getting compensation from the

Insurance Company. If respondents No.1 and 2 took the injured to the hospital, it would not mean that respondent No.1 had caused the accident and rather both the said respondents having admitted the accident in reply to the claim petition, collusion is apparent. They were aware that the claim would be paid by the Insurance Company and, therefore, they sided with the appellant admitting the accident so that they could be compensated though he had no legal right for that.

5. The Tribunal rightly dismissed the petition. The appeal is also dismissed.

**(NAVITA SINGH)
JUDGE**

24.09.2015

Ishwar

Whether to be referred to reporter: Yes