

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

FAO No. 1004 of 2006 (O&M)

Date of Decision: February 24, 2015

Satpal

....Appellant.

Versus

Som Nath @ Somi and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Rohan Sharma, Advocate,
for the appellant.

Mr. Kuldip Joshi, Advocate for
Mr. Harsh Aggarwal, Advocate,
for respondent No.3-UIIC.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

JASPAL SINGH, J.

Dissatisfied with award dated February 02, 2005 passed by Motor Accident Claims Tribunal, Karnal (for short, "Tribunal") in MACT No. 124 of 2003 preferred by appellant-claimant under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act' only) seeking compensation on account of injuries allegedly sustained by him in a vehicular accident was dismissed by holding that appellant-claimant has failed to establish that he sustained

injuries due to rash and negligent driving of truck by respondent No.1.

2. While assailing findings recorded by Id. Tribunal especially on issue No.1 and consequent dismissal of petition vide impugned award, it has been argued with vehemence by learned counsel for appellant, Mr. Rohan Sharma that same are absolutely against the settled canons of law. Mis-appreciation of evidence brought on record by appellant has resulted into miscarriage of justice. In fact, it is abundantly clear from oral as well as documentary evidence available on record that appellant was working as a Helper on truck No. HR-46-4098 on November 16, 2001. The said truck loaded with cement was going from Narnaul. When it reached near railway godown, appellant after checking tyres tried to board and move in the said truck but respondent No. 1 started and accelerated it at a high speed, due to which, he fell down on pucca portion of road and his right foot was crushed under the tyre of truck. A case bearing FIR No. 84, dated March 24, 2003 was registered against respondent No.1, copy of which is exhibited P-3 but testimony of appellant-claimant, contents of FIR and medical certificate have been ignored and disbelieved by Id. Tribunal erroneously simply on the ground that appellant has failed to explain the delay in registration of FIR. Even otherwise, FIR is not *sine quo non* for seeking compensation under Section 166 of the Act and evidence brought on record before Id. Tribunal is required to be taken into consideration to determine rashness and negligence on the part

of offending vehicle and to access compensation. The finding recorded by Id. Tribunal on issue No.1 are not sustainable in the eyes of law and deserves to be reversed and delivered in favour of appellant. Consequently, appellant is entitled to reasonable compensation.

3. On the other hand, learned counsel for respondent No.3- insurance company, Mr. Harsh Aggarwal while supporting award, has submitted that it does not require any interference by this Court being bereft of any infirmity or illegality. The same is absolutely in consonance with evidence available on file. In fact, there is no cogent and convincing evidence to establish that he sustained injuries on a relevant date involving truck in question. Hence, appeal is liable to be dismissed with exemplary costs.

4. After having bestowed a deep consideration to rival submissions made by learned counsel for parties and analyzing impugned award as well as other documents available on file, this Court is of the considered view that impugned award does not call for any interference by this Court.

5. No doubt, during the course of evidence, it was deposed by appellant that he sustained injuries on November 16, 2001 involving truck No. HR-46-4098, being driven by respondent No.1 rashly and negligently but to the utter surprise, FIR Ex.P-3 came to be registered on March 24, 2003 i.e. after a lapse of more than one year and four months. There is no explanation in this regard, what to

talk of any plausible one as to why appellant remained tight-lipped for such a long period and on one morning, he came and lodged complaint which formed basis of FIR. There is nothing on record to show that he ever approached police immediately after accident or even after his discharge from hospital. He has failed to bring on record anything that he moved various representations to higher police authorities. No such representation has seen the light of the day. Not only this, even there is no medical evidence to corroborate his version. No copy of MLR has been placed on record by appellant to establish that on the alleged date of accident, he got himself subjected to medico legally examination. Rather medical certificate Ex.P-4 issued by PGIMS, Rohtak reveals that he was admitted as non-medico legal case. No MLR was prepared in this regard. All these facts depict that even he did not think or consider appropriate to report the matter to concerned doctors, who are alleged to have given treatment at PGIMS, Rohtak. Even appellant-claimant has also failed to establish that he was working as a Helper. He did not opt to examine registered owner of truck in order to prove the said fact.

6. Thus, keeping in view the above referred circumstances, it can be safely concluded that Id. Tribunal was absolutely right in holding that appellant-claimant did not suffer injuries in motor vehicular accident on November 16, 2001, that too, involving truck No. HR-46-4098 allegedly driven by respondent No.1.

7. In the light of what has been discussed above, this Court does not find any illegality or infirmity in the impugned award dated February 02, 2005. Accordingly, instant appeal being devoid of merits is dismissed whereby impugned award is upheld.

8. No order as to costs.

February 24, 2015
sonika

(JASPAL SINGH)
JUDGE