

THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3627 of 2009

Date of decision : 20.02.2015

Mohan Lal

.....Appellant

Versus

Ram Pal and others

...Respondents

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of the 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 ?

Present: Mr. Arun Singal, Advocate
for the appellant

Mr. Ravinder Arora, Advocate
for respondent No. 3 – Insurance Company

ANITA CHAUDHRY, J.

The claimant is aggrieved as his petition filed under Section 166 of the Motor Vehicles Act, 1988 was dismissed.

It is apposite to refer to the facts disclosed in the petition. Mohan Lal–claimant was going from Panipat to Madlauda in a jeep driven by respondent No. 1. The rear tyre of the jeep burst and the jeep went out of control and turned turtle. The claimant pleaded that the accident had occurred on account of negligence of respondent No. 1 as the jeep had not been properly maintained. The Tribunal recorded a finding against the claimant on issue No. 1. It noted that no FIR had been lodged by the claimant. A DDR entry was got made by the claimant but he failed to place its copy on record. The

Insurance Company produced the copy of the DDR lodged a day after the accident. Madan Lal had made a statement to the police that rear tyre of the jeep had suddenly burst and vehicle had turned turtle and nobody was responsible for the accident.

The submission made on behalf of the appellant is that the claim petition should not have been dismissed solely because no FIR was not lodged and in ***Chaman Lal vs. Anil Kumar, 2007(1) PLR 719***, a cow had suddenly appeared on the road and the jeep driver could not stop the jeep rather and it went to the wrong side of the road and hit the scooter and it was held to be a case of rash and negligent driving and award was passed. Reliance was also placed upon ***Kaushnuma Begum vs. New India Assurance Co. Ltd., (2001-2) 128 PLR 334(SC)***.

The submission on the other hand was that had a claim been filed under Section 163-A of the Act then it would have been a different case but the claimant had approached the Court pleading negligence then he was required to prove that the vehicle had not been maintained properly but he made a report to the police that the tyre had burst suddenly and there was no fault of the driver and he could not resile from his statement. It was urged that the Tribunal had referred to a judgment of this Court where a similar situation had arisen.

The claim petition had been filed under Section 166 of the Motor Vehicles Act and the claimant had specifically pleaded that the accident occurred on account of negligence of the jeep driver. He had also pleaded that the jeep had not been properly maintained. No

FIR was got registered against the driver. The DDR was got registered at the instance of the claimant when the rear tyre had burst. The claimant attempted to jump out of the vehicle and was stuck below the jeep. He blamed no one for the accident and did not want any police action. Several passengers were travelling in the jeep. Since there was a contradiction in the statement given to the police and the one made before the Tribunal, the claimant's statement was not accepted.

There was contradiction in the two statements. In the initial statement made by the claimant, the claimant had not alleged that the vehicle was being driven at a high speed or in a rash and negligent manner. The claimant had failed to offer any explanation for the statement given earlier. The claimant even failed to divulge that a DDR had been registered on his statement. The claimant had not denied his signatures on the DDR. The driver on the other hand denied the accident. There is no evidence that the vehicle had not been maintained properly. The claim petition was rightly dismissed and I have no reason to take a different view.

The appeal is dismissed.

20.02.2015

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(ANITA CHAUDHRY)
JUDGE