

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

FAO No.1813 OF 2010 (O&M)
DATE OF DECISION : 20th AUGUST, 2015

Ramesh Kumar

.... Appellant

Versus

Lakhwinder Singh & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. R. S. Mamli, Advocate for the appellant.

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SURINDER GUPTA, J. (ORAL)

The appellant filed petition under Section 163-A of the Motor Vehicles Act, claiming compensation for injuries suffered by him in accident of his truck bearing registration No.HR-58A-0679, which he was driving on the intervening night of 5/6.06.2007. As per the appellant when he reached near village Pipli Majra near Police Station Chhachhrauli a cow suddenly came on the road and in order to save the cow he turned the truck towards the right side and in this process the truck hit tractor trolley coming from the opposite side. The claimant received multiple injuries, including fracture in his right leg. He was taken to Gaba Hospital, Yamuna Nagar from where he was referred to PGI, Chandigarh where he remained admitted from 06.06.2007 to 04.08.2007.

I have heard learned counsel for the appellant and perused the case file with his assistance.

Learned counsel for the appellant has argued that the learned Motor Accidents Claims Tribunal (in short, the Tribunal) had dismissed the

petition on the sole ground that the driving licence of the appellant was doubtful. The appellant had produced on record the driving licence and the onus was on the insurance company to prove that it was not a valid one. Without any evidence or report from the authority which issued the license, the Tribunal observed on the basis of presumption that being a resident of Yamuna Nagar the appellant could not have a valid driving license issued by the Licensing Authority at Nagaland.

The Tribunal has not looked into the claim of appellant qua the injuries received by him in the accident and has not gone into the merits of the case except observing that the driving license produced on record by the claimant was suspicious. The observation of the Tribunal to this effect read as follows:

“He produced copy of driving licence as Ex.P27 which was issued from the Government of Nagaland and was purportedly signed by the District Transport Officer, Tuensand (Nagaland). First of all it is not believable that a person being a present resident of district Yamuna Nagar would go to Nagaland to get a licence and secondly that he was getting the driving licence without giving the local address.”

The perusal of the order of the Tribunal shows that the insurance company has not produced any evidence to prove that the driving licence of the petitioner was invalid or fake. The findings of the Tribunal

on this point are just based on presumptions, conjectures and surmises and are without any basis.

In view of the above, this appeal is accepted. The award passed by the Tribunal is set aside. As the Tribunal has not gone into merits of the claim, the case is sent back, to be taken up by the Tribunal on 05.10.2015 on which date the parties will put in appearance. The Tribunal will decide the entire claim on merits, including the issue as to whether the applicant-appellant was having a valid driving licence, after providing opportunity to parties to lead evidence.

20th August, 2015
'raj'

(SURINDER GUPTA)
JUDGE