

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

FAO No.1906 of 2011 (O&M)

Date of Decision: April 01, 2015

Maninder Kaur

..Appellant

Versus

Ram Pal & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

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

Mr.R.K.S.Brar, Addl.AG, Haryana,
for respondent Nos.2 & 3.

Mr.Rajbir Singh, Advocate,
for respondent No.4-Insurance Company.

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?

Naresh Kumar Sanghi, J.(Oral)

The present appeal has been filed by Maninder Kaur, registered owner of maruti car bearing registration No.HR-23-B-7256 challenging the award dated 01.12.2010 passed by learned Motor Accidents Claims Tribunal, Ambala (for brevity “learned Tribunal”) whereby the claim of the appellant for award of compensation for damage caused to her car, was dismissed.

Learned counsel for the appellant submits that the accident in question is not in dispute, therefore, learned

Tribunal should have accepted the submission of the appellant/claimant that her Maruti car had been badly damaged in the accident and she (appellant) suffered loss to the extent of Rs.1,00,000/-(Rupees One lac only).

Learned counsel for the respondents submits that learned Tribunal has assigned the cogent reasons for dismissal of the claim petition since the appellant/claimant has miserably failed to substantiate her version that the car owned by her had suffered the damages to the extent of Rs.1,00,000/-(Rupees One lac only).

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

As per the case of the appellant/claimant on 04.07.2007 Sant Lal (since deceased) while driving Maruti car bearing registration No.HR-23-B-7256 was proceeding from Tohala to Ambala along with one Harmeet Singh. The said car was owned by the appellant/claimant. When the said car reached in the area of village Mohra in front of restaurant, popularly known as Chaupal Restaurant, in the meantime a bus bearing registration No.HR-45-7026 belonging to Haryana Roadways (hereinafter to be referred as the offending bus) being driven rashly and negligently by Ram Pal came from the

Ambala side and struck against the car being driven by Sant Lal. The occupants of the car received multiple injuries and the car was also damaged. The driver of the offending bus while leaving the bus at the spot ran away from there. The appellant claimed Rs.1,00,000/-(Rupees One lac only) for the damages caused to her car.

In the reply, the respondents did not dispute the factum of accident but pleaded that the same had taken place due to rash or negligent driving on the part of Sant Lal. It was further pleaded that in fact the Maruti car driver had struck the car against the bus.

On the pleadings of the parties, the following issues were framed:-

- (i)Whether the accident in question took place due to rash and negligent driver of bus No.HR-45-7026 by respondent No.1 causing damage to Maruti Car No.HR-23-B-7256? OPP.
- (ii) If issue No.1 is proved, whether claimants are entitled to compensation and if so, to what amount and from whom? OPP.
- (iii) Whether the bus in question was being used in contravention of terms and conditions of insurance policy and if so, its effect? OPR-4.
- (iv) Relief.

While dealing with the issues with regard to the damage of the Maruti car and the amount of compensation to be

paid to the appellant/claimant, in para 13 of the award, the learned Tribunal held as under:-

“As per the claim petition the claimant, Maninder Kaur has claimed a compensation to the tune of Rs.1,00,000/- on account of the damage caused to her Maruti car. For assessing the loss caused to the Maruti car the claimant was required to produce and prove on record the sufficient evidence in the shape of loss assessment, bills for the repair of the car etc. However, the claimant has not led any kind of evidence to prove the case. Therefore, this issue is answered against the claimant in lack of evidence.”

Learned counsel for the appellant was specifically asked by this Court as to show the evidence led by the appellant/claimant regarding the damages caused to her car then learned counsel fairly conceded that except the oral version of the appellant/claimant, no technical report or the bills etc for repair of the car was produced during inquiry before learned Tribunal.

Learned counsel for the respondents have also submitted that there is not an iota of evidence on the record to show that the maruti car bearing registration No. HR-23-B-7256 was damaged in the accident and how much amount was spent

by the appellant for its repair, therefore, learned Tribunal has rightly dismissed the claim petition.

This Court is also of the considered opinion that the appellant/claimant has not only failed in proving that the car was damaged in the accident but also how much loss was caused to the appellant, therefore, learned Tribunal has rightly returned the findings against the appellant.

No interference is called for by this Court and as such, the present appeal is hereby dismissed.

April 01, 2015
seema

(Naresh Kumar Sanghi)
Judge