

THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4408 of 2012

Date of decision : 30.01.2015

New India Assurance Company Limited

.....Appellant

Versus

Roshan Lal and another

...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. R.K. Bashamboo, Advocate
for the appellant

Mr. Vikrant Hooda, Advocate
for respondent No. 1

Mr. Chanderhas Yadav, Advocate
for respondent No. 2

ANITA CHAUDHRY, J.

This appeal is by the Insurance Company assailing the award dated 23.02.2012 vide which the claim petition filed by Roshan Lal for the injuries was allowed and an award of ₹ 4,59,800/- was passed.

The submission of the counsel for the appellant was that the accident had taken place on 20.03.2010 but the FIR was lodged 9 days later on 29.3.2010 and no MLR was prepared at the time of admission and it was a case of manipulations to extract compensation from the Insurance Company. It was urged that the claimant was a lawyer well versed with procedures and he would know that report had to be lodged with utmost urgency. It was

urged that no Doctor from PGI Rohtak was examined and Doctor from a private hospital admitted that there was no MLR in their record. It was urged that the injuries were not that serious which deterred the claimant from making the statement and it was a false case. He further submitted that if his submissions are not accepted then there was no evidence that his income had been decreased on account of disability and the functional disability could not be more than 10%. It was urged that the driver of the offending vehicle had taken a plea that no accident had taken place and he had been falsely implicated and he was ultimately acquitted and the award be set aside.

The submission on behalf of respondent No. 1 was that the delay occurred as the claimant had fallen unconscious and his statement was recorded when he was declared fit to make a statement and the claim could not have been denied as the Medical Officer failed to prepare the MLR or send a ruqa. It was urged that the claimant was taken to General Hospital, Jhajjar and after first aid he was referred to PGIMS Rohtak where he remained admitted for about 10 days and then he was admitted in Shivam Hospital, Gurgaon where he was operated twice.

The accident is stated to have occurred on 20.03.2010. Dr. Narender Singh of Shivam Hospital had deposed that Roshan Lal was admitted in their hospital on 31.03.2010. In the examination-in-chief, he stated that the injuries were suffered in the road side accident but in the cross examination on being probed, the Medical Officer admitted that there was no MLR in his record and as per his

record the patient had not received injuries in the road side accident.

The claimant had stated that he had fallen unconscious after the accident and was taken to General Hospital, Jhajjar in a injured condition by some passer by and on gaining consciousness, he made a call to his family and gave details about the accident but not the registration number of the offending vehicle. He stated that on 21.03.2010 while he was in PGIMS Rohtak he disclosed the registration number to his family members. He stated that police official had not visited the hospital upto 28.03.2010. He had stated that he had asked the doctors to prepare the MLR.

As against this Yogesh, the driver of the offending vehicle denied the accident. He stated that the claimant's family members and their associates in collusion with police were in search of some insured vehicle and his vehicle was stopped and his RC, driving licence and insurance policy was checked and he was named. He admitted that he was facing trial.

Roshan Lal had stated that he was taken to General Hospital, Jhajjar from where he was referred to PGIMS Rohtak but no record of General Hospital, Jhajjar was produced. No record of admission in PGIMS Rohtak was produced. The admission record would have contained the history disclosed to the Doctors. The admission in Shivam Hospital, Gurgaon was on 31.3.2010. No explanation has come for the delay in lodging the FIR. There is no explanation why the claimant did not inform the hospital authorities that it was road side accident. The claimant is lawyer and well versed with law and procedure. The MLR shows that it was prepared

on police request nine days after the accident. There is no evidence to connect the inquiries to the accident. The record of PGI Rohtak was purposely kept away from the Tribunal. The production would have given him away. The driver has been acquitted in the trial though it is not a circumstance which is relevant. But it is clear case where a vehicle has been introduced with a view to claim compensation. The findings recorded by the Tribunal are set aside. The claim petition is dismissed. The appeal is allowed.

30.01.2015

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**(ANITA CHAUDHRY)
JUDGE**