

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

**FAO No.6242 of 2012 (O&M)
Date of decision: 08.09.2015**

Satpal Singh

.....Appellant

Versus

Hoshiar Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajbir Singh, Advocate,
for the appellant.

Mr. Nandan Jindal, Advocate,
for respondent No.1.

Ms. Nimarta Kaur, Advocate,
for Mr. Chanderhas Yadav, Advocate,
for respondent No.2.

Ritu Bahri, J.

Sat Pal Singh-appellant has come up in appeal against the Award dated 21.07.2012 passed by the Motor Accident Claims Tribunal, Sangrur, whereby an amount of Rs.1,67,588/- along with interest at the rate of 7 ½% has been awarded to the claimant-respondent No.1 (Hoshiar Singh) on account of injuries suffered by him in a road accident, which took place on 06.08.2010.

Brief facts of the case are that on 06.08.2010, Hoshiar Singh-claimant (respondent No.1) was going to Dhuri on his motorcycle bearing registration No. PB-13-U-320. When he reached near Himalaya School, Dhuri, an Indica car bearing registration No. HR-08-D-0189, being driven by Sat Pal (appellant herein) in a rash and negligent manner, came from the opposite side and struck

against the motorcycle of the claimant-respondent No.1, as a result

of which, Hoshiar Singh received injuries. He was shifted to DMC, Ludhiana. Consequently, the claimant-respondent No.1 filed a claim petition before the Tribunal.

Upon notice, respondent No.1-Sat Pal (appellant herein) appeared and filed written statement, wherein he took preliminary objections with regard to maintainability, locus standi, petition being bad for non joinder of necessary parties and that the claimant had not approached the Tribunal with clean hands. On merits, the accident was denied. It was further submitted that the claimant being employee of Kulwant Singh was getting income of Rs.20,000/- per month. It was alleged that the claimant had lodged a false FIR in connivance with the police in order to get compensation. Fact regarding treatment of claimant in DMC, Ludhiana, was denied. It was further submitted that the aforesaid car was not insured and the same was not involved in any accident.

Respondent No.2 did not appear before the Tribunal and was proceed against exparte.

From the pleadings of the parties, following issues were framed by the Tribunal:-

1. Whether on 06.08.2010, Hoshiar Singh had sustained injuries in a motor vehicle accident due to rash and negligent driving of Indica Car bearing No. HR-08-D-0189 by respondent No.1 Sat Pal Singh son of Balwant Singh?

OPA

2. If issue No.1 is proved in favour of the claimant then whether the claimant is entitled to receive the

compensation from the respondents, if so, what extent and from whom? OPP

3. Whether the claim petition is not maintainable in the present form? OPR

4. Whether the claim petition is bad for non-joinder and mis-joinder of necessary parties? OPR

5. Whether the claimant has no locus standi to file the present claim petition? OPR

6. Whether claimant has not come to the Court with clean hands? OPR

7. Relief.

The Tribunal, after going through the evidence led by the parties, returned a finding that the accident had taken place on account of rash and negligent driving of the car by driver-Sat Pal Singh (appellant).

Learned counsel for the appellant has argued that this finding on issue No.1 has been wrongly answered against the appellant-driver. The claimant-respondent No.1, in his cross-examination, had admitted that from 06.08.2010 to 10.08.2012, he did not disclose anybody as to who had caused the accident and the police officers had told him that the present appellant had caused the said accident. This fact is sufficient to come to the conclusion that the allegations in the FIR were wrong. It has been further argued that Sat Pal Singh-appellant had appeared as RW-1 and controverted the stand taken by the claimant-respondent No.1 in his claim petition.

However, in para No.7 of the Award, a finding has been

recorded that RW-1, in his cross-examination, had admitted that at the time of accident, Hoshiar Singh-claimant (respondent No.1) had suffered injuries and the police took the car in possession at the place of accident and Hoshiar Singh got treatment with regard to injuries at DMC, Ludhiana. This admission of the driver-appellant was sufficient to return a finding that the accident had taken place when he (Sat Pal Singh) was driving the offending car, which was taken into possession by the police from the place of accident. Furthermore, after registration of FIR, Ex.A-44), the challan has been presented and the driver (appellant) was facing a criminal trial. All the above said evidence was sufficient to conclude that the present appellant was driving the offending car in a rash and negligent manner. Accordingly, the finding returned by the Tribunal on issue No.1 does not require any interference at this stage.

As far as the claim of compensation is concerned, as per disability certificate, Ex.A-10, total disability was 60% of the right lower limb. No evidence was led by the claimant-respondent No.1 to show that this disability had affected his earning in any manner. He was 60 years of age and was getting pension. On the basis of evidence led by the claimant, an amount of Rs.20,000/- was awarded on account of pain, suffering and trauma. Ultimately, an award of Rs.1,67,588/- was passed in favour of the claimant along with interest at the rate of 7½% from the date of filing of the petitioner till its realization.

After going through the impugned Award, this Court is of the view that the accident took place on account of rash and negligent

driving of the offending car by the driver-appellant. The claimant-respondent No.1 received multiple injuries in the said accident resulting into 60% disability. Accordingly, the impugned Award does not require any interference as the aforesaid compensation has been rightly awarded in favour of the claimant-respondent No.1.

Resultantly, the present appeal is dismissed.

The amount of Rs.25,000/- deposited by the appellant before this Court at the time of admission of the appeal be adjusted and paid to the claimant-respondent No.1.

08.09.2015
ajp

(RITU BAHRI)
JUDGE