

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

**FAO No.622 of 2013
Date of decision : 07.09.2015**

Ram Kishan ...Appellant
versus
Ganeshi Lal Saini & others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. M.S.Randhawa, Advocate for the appellant.
Mr. D.K.Prajapati, Advocate for respondents No.1 and 2.
Ms. Vandana Malhotra, Advocate for respondent No.3.

RITU BAHRI, J (Oral)

The appellant/claimant has come up in appeal against the award of the Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as “the Tribunal”), whereby his claim petition for claiming compensation on account of injuries suffered by him on account of accident which as per the version of the claimant took place on 10.09.2010, has been dismissed.

The claimant was working as a driver on the truck of respondent No.2 bearing No.HR-66-2597. On 10.09.2010, he on the aforesaid truck, after loaded it with plastic pipes was going to Indore from Mohindergarh. The truck was driven by respondent No.1 Ganeshi Lal and he was sitting in the truck as a school driver. When at about 5.00 p.m. They reached near Ganda Nala, Rewari road then Ganeshi Lal after stopping the truck asked him to tighten the rope of tarpaulin. When he was tightening the rope of tarpaulin, respondent No.1 suddenly started the truck in the reverse gear, on account of which his head struck the truck and wooden log of the truck pierced his

eyes. He became unconscious. The accident was witness by Prabhu son of Bhagirath, who gave information to the family members of the claimant. The family members of the claimant took the claimant to the All India Institute of Medical Sciences, Delhi for treatment, but despite the treatment the claimant has completely lost his right eye. Since, the claimant after the accident went to the All India Institute of Medical Sciences, Delhi for treatment, therefore, the FIR could not be lodged immediately. After the treatment, the claimant suffered great mental and physical agony. When the claimant recovered slightly, then the FIR of the accident Ex.PW3/B was lodged in the Police Station, City Narnaul on 11.11.2010. The respondents who are driver, owner and insurer of the offending truck are jointly and severally liable to pay him compensation.

Respondents No.1 and 2 in their written statement disputed that the claimant was ever employed with respondent No.2 as a driver on the abovesaid truck on a monthly salary of Rs.10,000/-. The stand of respondent No.3-insurance company was that the claim petition has been filed by the claimant in collusion with respondents No.1 and 2.

The Tribunal framed the following issues:-

- “1. Whether the Motor Vehicle Accident which took place on 10.9.2010 was caused on account of rash and negligent driving of vehicle bearing registration No.HR-66-2597 by respondent No.1, resulting into injuries of claimant Ram Kishan?
2. If issue No.1 is proved, whether the claimant is entitled to receive any amount of compensation. How much and from whom? OPP.
3. Whether the respondent No.1 was driving the

offending vehicle in violation of terms and conditions of policy of insurance? OPR.

4. Whether the claim petition is not maintainable? OPR.

5. Relief.”

After going through the evidence, the Tribunal came to a conclusion that in the treatment report Ex.RX of All India Institute of Medical Sciences, New Delhi, it has been recorded that the claimant has received the eye injury on account of fall on previous day from height of about 11 feet onto some wooden logs. The report Ex.RX did not state anything with regard to accident which took place. The claimant before the Tribunal did not lead any evidence to assail the history of accident stated in his detailed treatment report Ex.RX. Thereafter, the Tribunal has taken into consideration the delay of 4 months in lodging the FIR from the date of accident. In the absence of any evidence of assailing the medical report Ex.RX, the claim petition has been dismissed.

After going through the evidence and the impugned award, no ground is made out to interfere in the award passed by the Tribunal as the version given by the claimant who suffered injury in his eyes before All India Institute of Medical Sciences, has been accepted by the Tribunal in which no mention of any negligence or accident has been stated which led to the injury in his eyes. The appeal is devoid of any merits and is dismissed.

07.09.2015
Vinay

(RITU BAHRI)
JUDGE