

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 757 of 2013 (O&M)

Date of decision 31.03. 2015.

National Insurance Company Limited

..... Appellant.

versus

Paramjit Singh Mann and another

..... Respondents.

CORAM :- HON'BLE MR.JUSTICE K.C.PURI.

1. Whether Reporters of Local Newspapers 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 : Shri Narinder Kumar, Advocate for
Shri Ashwani Talwar, Advocate for the appellant.
Shri V.D.Goel, Advocate for respondent No.1.
Shri Gopal Singh Nehal, Advocate for respondent No.2.

K.C.PURI, J.

This is an appeal directed by the Insurance Company against the Award dated 07.11.2012 passed by Shri A.S.Grewal, Presiding Officer, Motor Accident Claims Tribunal, Sangrur vide which claim petition filed under Section 166 of Motor Vehicles Act (in short - the Act) directed by Paramjit Singh Mann claimant was partly accepted and a sum of Rs.93,687/- was granted.

2. Briefly the case of the claimant is that on 12.10.2010 around 3.00am claimant alongwith his father i.e. respondent No.1 Santokh Singh were going from Officer Colony, Sangrur to their house on motorcycle

bearing registration No. PB-13V-2500. The above said motorcycle was driven by the respondent No.1 and claimant was the pillion rider. Claimant asked the respondent No.1 to slow down the speed of motorcycle and to drive the motor cycle carefully but respondent no.1 kept on driving the motorcycle in a rash and negligent manner. Due to the rash and negligent driving of the motorcycle by the respondent No.1, the motorcycle skidded and due to that claimant fell down on the road and sustained multiple grievous injuries on his person. The motorcycle was badly damaged in the said accident. Claimant was taken to Civil Hospital, Sangrur. Even the concerned doctor sent the ruka to Police Station City Sangrur but the police never took any action. Claimant was then referred to Amar Hospital, Patiala where he remained admitted from 12.10.2010 to 15.10.2010. Claimant never lodged any DDR/FIR regarding accident as the vehicle was driven by his father-respondent No.1. Hence the claim petition.

3. On notice, respondents appeared and respondent No.1 filed his written statement alleging that he never drive the vehicle in a rash and negligent manner. Therefore, he is not liable to pay any compensation to the claimant. moreover, the motorcycle was insured with respondent No.2 and respondent No.1 was having a valid driving licence and registration certificate. Denying other averments, answering respondent prayed for dismissal of the claim petition.

4. Respondent No.2 in his written statement pleaded that the motorcycle was insured with it at the time of alleged accident but answering respondent is not liable to pay any compensation to the claimant.

False disability certificate has been procured by the claimant. Further, it is submitted that the claim of the damaged motorcycle amounting to Rs.2648/- has been paid to Santokh Singh by respondent No.2. Further it is alleged that no such accident took place as alleged. No DDR and FIR was lodged by the claimant. Denying other averments, answering respondent prayed for dismissal of the claim petition.

5. From the pleadings of the parties, following issues were framed :-

- (1) Whether claimant got injured on 12.10.2010 due to the rash and negligent driving of motorcycle bearing registration No. PB-13-V-2500 so driven by respondent No.1 ? OPP
- (2) Whether the claimant is entitled for compensation, if so, what extent and from whom ?OPP
- (3) Whether the claim petition is not maintainable in the present form ?OPR
- (4) Whether the claimant has no cause of action to file the present claim petition ? OPR
- (5) Relief.

6. The Tribunal, after assessing the testimony of the witnesses accepted the claim petition and allowed a sum of Rs.93,687. Out of the said amount Rs.23,687/- were given on account of medical treatment and Rs.60,000/- on account of disability to the extent of 30% were allowed in that respect.

7. Feeling dissatisfied with the above said Award, the appellant-Insurance Company has directed the present appeal, as aforesaid.

8. I have heard learned counsel for the parties and have gone through the records of the case.

9. Learned counsel for the appellant has submitted that accident has not been proved. There is no FIR in the present occurrence.

10. I have considered the said submission but do not find any force in that submission.

11. It is not disputed during the course of arguments that in respect of the same accident, the damage claimed in respect of motor cycle has been allowed. So, the factum of accident has been admitted by the Insurance Company-appellant by giving the compensation in respect of the motor cycle. So, mere fact that FIR has not been registered is not a ground to discard the case of the claimant.

12. The next contention raised by the counsel for the appellant is regarding quantum of compensation. It is submitted that amount of Rs.93,687/- is on higher side.

13. However, I have considered the said submission also but do not find any force in that submission.

14. The Tribunal has awarded a sum of Rs.60,000/- in respect of 30% permanent disability which cannot be said to be on higher side. Another sum of Rs.23,687/- has been actually spent by the claimant and that amount has been reimbursed.

15. Counsel for the appellant has further submitted that claimant has failed to prove the factum of rash and negligent driving.

16. I have considered the said submission but do not find any force in that submission.

17. The statement of the claimant has been rightly accepted in this regard.

18. Learned counsel for the appellant has further submitted that no case under Section 166 of the Motor Vehicles Act is made out as rash and negligent driving is not proved. At the most, it can be a case under Section 163-A of the Motor Vehicles Act but the same is not maintainable as the income of the claimant was more than Rs.15,000/- per month, as alleged and as such income was more than Rs.40,000/- per annum.

19. I have carefully considered the said submission.

20. The negligence of respondent No.1 stands proved. So, the above said argument is without any substance.

21. Consequently, the appeal is without any merit and the same stands dismissed.

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22. Since the main appeal has been decided, so, the present application has been rendered infructuous and the same also stands dismissed.

23. A copy of this judgment be sent to the trial Court for strict compliance.

**(K.C.PURI)
JUDGE**

March 31 , 2015

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