

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

**FAO No.1771 of 1992
Date of decision :12.01.2016**

Pritam Singh

.....Appellant

Versus

Jaswant Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporters or not ? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. Arvind Singh, Advocate for appellant.

None for respondents No.1 to 3.

Mr. Aseem Aggarwal, Advocate for respondent No.4.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 04.09.1992, passed by learned Motor Accidents Claims Tribunal, Kurukshetra (hereinafter called the 'Tribunal'), vide which the claim petition filed by the appellant for grant of compensation to the tune of Rs.5,12,500/- on account of the injury received by him in the motor vehicular accident, which took place on 06.07.1991 has been dismissed.

2. As per the averments in the petition, claimant Pritam Singh on 06.07.1991 was going to the complaint Office of Haryana State Electricity Board at Malikpur on his scooter. When he reached at Bus

Stand of Malikpur, a bus bearing registration No.HR-20-9861 of Haryana Roadways being driven by its driver Jaswant Singh (respondent No.1) in a rash and negligent manner came from Hisar side and struck against the claimant, as a result of which he suffered the multiple injuries. Hence, the petition.

3. The claim petition filed by the appellant was contested by respondents. Respondents No.1 to 3 filed the written statement wherein they denied the factum of accident and pleaded that the claim petition has only been filed to get the compensation. The respondent- insurance company pleaded that the accident has occurred due to negligence of the petitioner. The daily diary report No.29 was entered on the basis of statement made by appellant-claimant. The respondents have also raised certain preliminary and additional objections.

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

1. Whether the accident in question took place due to rash and negligent driving of Jaswant Singh respondent No.1 driver of bus No.HR-20-9861, resulting in injuries to Pritam Singh claimant? OPP
2. If issue No.1 is proved, then what amount of compensation is the claimant entitled and from whom? OPP
3. Relief.

5. On appreciating the evidence, the learned Tribunal held that the accident has not taken place with bus No.HR-20-9861. Though the learned Tribunal has computed the amount of compensation but in view of the findings on issue No.1, the claim petition was dismissed. Hence, this appeal.

6. I have heard Mr. Arvind Singh, Advocate, learned counsel for the appellant, Mr. Aseem Aggarwal, Advocate, learned counsel for respondent No.4 and carefully gone through the paper-book.

7. Learned counsel for the claimant-appellant contended that the appellant in his statement has categorically deposed that the accident has occurred due to rash and negligent driving of bus No.HR-20-9861 by respondent No.1 Jaswant Singh. His version has been fully corroborated by PW7 Buta Singh, the witness of occurrence. He further contended that the appellant was an illiterate person and police has obtained his thumb impression on the blank papers, which was later on converted to the statement Ex.P3. He contended that the statement made by the appellant and PW7 Buta Singh on oath before the Tribunal cannot be brushed aside simply on the basis of statement Ex.P3, which is fabricated document. Thus, he contended that it is proved that the present accident has taken place due to rash and negligent driving of bus No.HR-20-9861 by respondent No.1.

8. On the other hand, learned counsel for respondent No.4 contended that the appellant has made statement Ex.P3 to the police which has been duly proved by RW2 Prempal wherein he has not attributed any fault to respondent No.1. Now he cannot wriggle out from that statement. PW7 Buta Singh is a procured witness. Thus, he contended that there is no illegality in the findings arrived at by the learned Tribunal.

9. I have duly considered the aforesaid contentions.

10. Perusal of the impugned award shows that at the initial

stage, appellant claimant Pritam Singh has made the statement Ex.P3 wherein he had not blamed anyone for the injuries received by him in the accident. He also could not notice the number of the bus and has projected that the number of the bus was noted by the persons present at the spot but none of them have been produced in the witness box. PW7 Buta Singh has not stated the registration number of the bus in his statement recorded by the Tribunal. So, it is not explained from where the claimant obtained the registration number of the bus in question. RW2 Prempal has proved the statement Ex.P3. He has deposed that he scribed this statement on the dictation of the appellant. The same was read over to him and, thereafter, he thumb marked the same. Appellant claimant is an Ex. Serviceman. It is not believable that he will remain mum and will not make effort to know about the proceedings to be initiated by the police with regard to this accident. PW7 Buta Singh has admitted in the cross-examination that he has good relations with the appellant and had deposed at his instance. He admitted that he has not approached the police nor his statement was recorded by the police. So, he seems to be a procured witness being close to the appellant.

11. It is not disputed that Ex.P3 is the first version of the accident narrated by the appellant to the police wherein it is mentioned that the accident had taken place per chance and, there was no fault of the bus driver and he does not want to initiate any action against the bus driver. The appellant cannot be allowed wriggle out from the initial version of the occurrence. In case *Surinderjit Singh Vs. Kuldip Rai Thapar and others 1982 PLR 711* in the statement immediately made

after the accident, the claimant absolved the car driver of his negligence. Later on he filed the petition claiming compensation. This Court held that claimant cannot resile from the statement made to the police. The same ratio of law has been laid down by this Court in case ***Jagdish Kaur and another Vs. Ragbir and others 2004(1) PLR 670***. The ratio of law laid down in the cases referred above is fully applicable to the facts of the case.

12. Thus, I do not find any illegality in the findings of the learned Tribunal that the appellant has not been able to establish the negligence and involvement of the vehicle.

13. Resultantly, the present appeal is without any merits and the same is hereby dismissed.

12.01.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**