

In the High Court of Punjab and Haryana at Chandigarh

FAO No.657 of 2002

Date of decision: March 03, 2016

Rohtash

..... Appellant

Versus

Suresh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Dinesh Arora, Advocate for the appellant.

Mr. Rohit Goswami, Advocate for Mr. D.P. Gupta, Advocate
for respondent No.3.

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?*

AJAY TEWARI, J. (Oral)

This appeal has been filed against dismissal of the claim petition on the ground that the appellant was not able to establish the factum of the accident.

Brief facts are that on 31.01.1999 appellant Rohtash along with his sister-in-law Krishna were returning from Sonapat to their home after shopping. His sister-in-law was pillion-rider on his scooter No.HR-12B/3943 when he was just started scooter at Sonapat it was 6.15 P.M.

When they reached near Bus stand Sonapat, a Tata Sumo bearing

No.HR-10T/1161 came driven rashly and negligently at a high speed without blowing any horn, hit the scooter from front side, due to which, the appellant and his sister-in-law Krishna fell down and received injuries on their person. Suresh was driving the said Tata Sumo rashly and negligently. Balwan Singh the brother of the appellant, who was also present at the time because he was shopping at Sonapat, also reached at the spot. The driver ran away from the place of accident. Both the injured were admitted to Civil Hospital, Rohtak for treatment.

Learned counsel for the appellant has argued that in this accident two persons were injured and one of the claimants-injured had filed the claim petition at Sonapat and the Tribunal held the accident to be proved and that judgment has attained finality. Copy of that Award is annexed as Annexure P-2. He has argued that once the judgment has attained finality it would not lie in the mouth of the Insurance Company to argue in this case that no accident took place.

Learned counsel for respondent No.3-Insurance Company on the other hand has argued that even though one Tribunal may have held that the accident was proved yet this case had to be decided on the evidence presented before the Tribunal and if necessary evidence was not led, the Tribunal cannot be faulted for having rejected the petition.

In my opinion, even though there is some merit in the contention of learned counsel for respondent No.3 yet the fact remains that one Tribunal held that the accident had taken place and respondent No.3 has accepted that finding. In the circumstances, notwithstanding the fact that the Tribunal held that the accident had not taken place in

the present case, this Court sitting in appeal cannot be oblivious of the other case. In the circumstances, I held that the accident did take place.

Coming to the issue of compensation, the Tribunal noticed that some chemists bills were placed on record yet there was no medical evidence to prove the nature of the injuries which the appellant may have suffered.

Learned counsel for the appellant is not in a position to deny this fact.

In the circumstances, it cannot be held that the injury was caused to the appellant from the above accident. Even hospitalization record is not there.

As regards the claim of damages to the scooter also, the Tribunal held that the person who came to give testimony about the repair which he had made to the scooter was not credible. Further the mechanic also admitted that he was merely a helper. In these circumstances, no fault can be found with the finding of the Tribunal on this ground. Resultantly, even if it is held that the accident did take place yet the appeal is dismissed.

(AJAY TEWARI)
JUDGE

March 03, 2016
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