

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

FAO-270-1999

Date of decision: 13.5.2016

Ranjit Singh

...Appellant

Versus

Saraswati Stone Crusher and others.

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mrs.GK Turka, Advocate for the appellant

Mr.Atul Yadav, Advocate for

Mr.Maharaj Kumar, Advocate for respondent No.3

Mr.MB Jain, Advocate for respondent No.4

SNEH PRASHAR, J.

The present appeal had been filed assailing the impugned Award dated 1.9.1998 passed by learned Motor Accident Claims Tribunal, Patiala (for short, “the Tribunal”) vide which, the claim petition of the appellant was dismissed.

Precisely the averments in the petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') filed by the claimant/appellant were that on 8.3.1992 at about 2.45 P.M., he (Ranjit Singh) alongwith his wife was going from Zirakpur to his Village Sangotha on his scooter. He was on Chandigarh -Ambala road and was driving the scooter at a moderate speed and on the correct side of the road. When he reached within the revenue limit of Village Bhankharpur,

a truck bearing registration No.HR-01-7185 being driven rashly, negligently and at high speed by Pavittar Singh (respondent No.3 herein), came from the side of Zirakpur and hit his scooter on the right side. As a result of the accident, he and his wife fell down. He suffered injuries on his head, right thigh and other parts of the body.

From the site of accident, he was taken to Primary Health Centre, Dera Bassi, from where he was referred to General Hospital, Sector 16, Chandigarh, where he remained hospitalized w.e.f. 8.3.1992 to 18.5.1992 and had to undergo surgery. The accident was reported to the police at Police Station Dera Bassi. Submitting that he had spent a sum of Rs.1,80,000/- on treatment and suffered loss of income to the extent of Rs.6000/- per month for a long time and that the accident had taken place entirely due to rash and negligent driving of the offending truck by its driver, the appellant filed the claim petition.

The driver, owner and the insurer were impleaded as respondents No.1 to 3 respectively, who contested the claim petition. Respondents No.1 and 2 denied the occurrence of accident involving the offending truck. Respondent No.3 Insurance Company also denied the factum of accident as alleged by the claimant-appellant and raised all the defences available to it under the Act of 1988.

On the basis of pleadings of the parties, following issues were framed:-

- 1. Whether injuries caused to Ranjit Singh were due to rash and negligent act of driving of respondent No.2 Bachittar Singh ?OPP*
- 2. If issue No.1 is proved, to what amount of*

compensation the claimant is entitled to and from whom?OPP

3. Whether claim petition is bad for non-joinder of necessary parties?OPR

4. Relief.

Both the parties adduced evidence to discharge the onus of issues on each of them. Considering the ocular and documentary evidence led by the parties and the submissions made on their behalf, learned Tribunal dismissed the claim petition.

Feeling aggrieved, the appellant preferred the instant appeal.

The submissions made by learned counsel for the parties have been heard and record perused.

Learned counsel for the appellant argued that in addition to his own deposition, wherein the details of cause of accident, the nature of injuries sustained by him and the pecuniary and non-pecuniary losses suffered by him as a result thereof were mentioned, the appellant examined AW2 Dr.VD Singh, Plastic Surgeon, General Hospital, Sector 16, Chandigarh, who stated that on 8.3.1992, the appellant was admitted in the hospital with a history of road side accident and that he had multiple injuries on various parts of the body. The bed head ticket of the appellant Ex.A35 was tendered in evidence by the doctor. The Daily Diary Report No.18 dated 18.3.1992 registered at Police Station Dera Bassi also proves that the appellant was admitted in hospital with injuries on his person. The police on receipt of information about his admission in Primary Health Centre, Dera Bassi went there and came to know that he had been referred to General Hospital, Sector 16,

Chandigarh and his statement would be recorded on the next day but the Investigation Officer did not approach him ever thereafter and for that reason the First Information Report could not be registered. In any case, from the statement of the appellant corroborated by the testimony of AW2 Dr.VD Singh, it is established that the appellant had suffered injuries in a vehicular accident that took place due to rash and negligent driving of the offending truck by its driver Pavittar Singh. For the mere reason that due to typographical mistake, initially the name of the driver of the truck was mentioned as Bachittar Singh, learned Tribunal disbelieved the testimony of the appellant and wrongly dismissed his claim petition.

It appears to be a misconception on the part of the appellant that learned Tribunal merely for the reason that at the first instance, the driver of the offending truck was named as Bachittar Singh had disbelieved the testimony of the appellant. The fact is that no substantive and reliable evidence could be adduced by the appellant to prove the factum of accident; cause of accident and identity of the offending vehicle involved in the accident as narrated by him in his pleadings.

Admittedly, no report in respect of the accident was lodged with the police either by the appellant or by his wife, who was said to be an eye witness, as she was accompanying the appellant at the time of accident. The Daily Diary Report No.18 dated 18.3.1992, now placed on file by learned counsel for the appellant, simply proves that on receipt of the information about admission of the appellant in Primary Health Centre, Dera Bassi, the police had gone to the said hospital for recording

his statement. Since at the hospital, the police official was informed that the appellant had been referred to General Hospital, Sector 16, Chandigarh, he came back and it was mentioned that the statement of the injured would be recorded in the morning. Nothing was produced by the appellant to prove what was further action taken by the police. Even if it is accepted for the sake of argument that the police did not approach the appellant, who was admitted in the hospital, there appears no reason why the wife of the appellant, who was an eye witness did not come forward to lodge a report with regard to the accident. For the reason best known to the appellant, she was not even examined by him to corroborate his testimony in the present petition.

The matter does not end here. No doubt AW2 Dr.VD Singh deposed that the appellant was admitted in the hospital, as a case of road side accident, but he could explain no reason why the medico legal report of the appellant was not prepared when the history given to him was admittedly of a road side accident. Neither in the discharge slip Ex.A34 nor in the bed head ticket Ex.A35, there is mention of history of the accident by the doctor.

It being so, when and how the appellant suffered injuries in a road side accident remained unproved. As regards the identity of the offending vehicle involved in the accident, Pavittar Singh, who was impleaded as driver of the offending truck appeared as RW2 and categorically denied that he had ever been employed as driver on the said truck. The truck was owned by Sarswati Stone Crusher and Mangat Ram (respondent No.1 and 1A herein) but nothing could be produced by

the appellant to prove that Pavittar Singh was employed as a driver with the owner or was the person, who was driving the offending truck on the date of accident. Evidence to the said fact was necessary when there was no document immediately after the accident to prove the factum of accident or identity of the vehicle involved in the same. The appellant was unable to produce any other eye witness of the accident.

In the absence of required evidence, it can be said without hesitation that the appellant had failed to prove the identity of the vehicle involved in the accident. Learned Tribunal rightly held that there was no evidence to support the case of the appellant and he had failed to prove that he had suffered injuries as a result of rash and negligent driving of the offending truck by its driver Pavittar Singh.

Consequent to the above discussion, there being no merit in the appeal, it is dismissed.

13.5.2016
gsv

(SNEH PRASHAR)
JUDGE

Note: Whether to be referred to the Reporter? Yes/no