

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

FAO No.581 of 1998 (O&M)

Date of decision : 09.08.2016

Ram Sarup

.....Appellant

Versus

Raghbir and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. K.G. Chaudhary, Advocate for appellant.

Respondent No.1 died.

Mr. Pawan Kumar Jangra, AAG, Haryana
for respondents No.2 & 3.

Mr. Munish Kumar Garg, Advocate
for LR's of respondents No.5 and 6.

Appeal against respondents No.4 & 7 already dismissed.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellant-claimant Ram Sarup against the award dated 19.11.1997 passed by the learned Motor Accidents Claims Tribunal, Jind (hereinafter called the Tribunal), vide which the claim petition filed by the appellant-claimant has been dismissed.

2. As per the averments in the claim petition, on 13.12.1994 the claimant was going to Jind Cooperative Sugar Mill, Jind in tractor-trolley

bearing registration No.HRV-4599 to supply the sugarcane loaded in a trolley. The said tractor was owned by respondent No.6 Dalip Singh and was taken on hire by the appellant. It was being driven by respondent No.5 Rajbir Singh at slow speed. Smt. Omi, the wife of appellant, was also sitting on the said tractor. The said tractor was hit by bus bearing registration No.HRV-3887 being driven by respondent No.1 Raghbir in a rash and negligent manner, due to which the appellant-claimant fell down. The trolley turned over him and he suffered the injuries.

3. The claim petition has been contested by the respondents. It was pleaded that the bus bearing registration No.HRV-3887 was never involved in any accident. The appellant received the injuries due to breaking away the hook of the trolley of the tractor. On the day of occurrence, the bus bearing registration No.HRV-3887 was on its route from Kurukshetra to Jind. The said bus was stopped near C.R. College, Jind to alight the passengers. In the meantime, the tractor trolley loaded with sugarcane came from Sabzi Mandi side. When the tractor was crossing the speed breaker, the hook of the trolley was got broken. The appellant was sitting on the loaded trolley. He fell down as a result thereof and suffered the injuries.

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

1. Whether petitioner Ram Sarup sustained injuries in a motor vehicular accident on 13.12.1994 near Shamshan Ghat Mandir on railway road, Jind, on account of rash and negligent driving of bus No.HRV-3887 by its driver respondent Raghbir Singh and rash and negligent driving of tractor No.HRV-4599 by its driver Rajbir, respondent No.5? OPP

2. Whether respondents No.2 and 3 are not liable on the ground that the petitioner received injuries due to sudden breakage of hooks of the loaded tractor trolley which hit with an electric pole, the petitioner fell down and then tractor turned towards the canal side and then struck against the standing bus? OPRs
3. How much amount, the petitioner is entitled to realise as compensation and from whom? OPP
4. Relief.

5. The learned Tribunal, on appreciation of the evidence and contentions raised by learned counsel for the parties, came to the conclusion that the appellant has suffered the injuries due to an accidental fall from the trolley loaded with sugarcane and the claim petition was dismissed. Hence this appeal.

6. Learned counsel for the appellant contended that this fact is established that the appellant had suffered the injuries in this accident from the statements of appellant-claimant Ram Sarup and RW2 Rajbir, the driver of the tractor and it is also established that the accident has taken place due to rash and negligent driving of bus bearing registration No.HRV-3887 by respondent No.1 Raghbir. Thus, he contended that the learned Tribunal has wrongly dismissed the petition.

7. On the other hand, learned counsel for the respondents contended that as per the first version of the appellant he has accidentally suffered the injuries and nobody was at fault but later on, after more than one month of the occurrence, he concocted up a false story to implead respondent No.1 Raghbir being inimical to him. The statements of claimant

and Rajbir Singh are contradictory. Thus, they contended that the learned Tribunal has rightly dismissed the petition.

8. I have duly considered the aforesaid contentions.

9. No doubt appellant Ram Sarup has suffered the injuries as a result of the motor vehicular accident but in order to fasten the liability upon the respondents, the appellant-claimant was required to establish that the accident has taken place due to rash and negligent driving of bus bearing registration No.HRV-3887 by respondent No.1 Raghbir. The respondents have raised the specific plea in the written statement that the appellant has suffered the injuries due to accidental fall from the trolley loaded with sugarcane as he was sitting on the said trolley. The trolley was detached from the tractor when it crossed the speed breaker. The version put forward by the respondents seems to be plausible. The first version of the occurrence has been recorded in the bed-head ticket prepared by the doctor of the General Hospital, Jind where he was immediately taken after the accident. PW1 Dr. B.K. Satija has categorically stated that it was got recorded by the appellant in the bed-head ticket that he has received the injuries on his own and due to this reason he did not want that any police action be taken. So, as per the first version of the appellant he has himself received the injuries and he had not attributed any negligence to respondent No.1. He has not even stated that the tractor and trolley in which he was travelling was hit by the bus bearing registration No.HRV-3887 driven by respondent No.1 Raghbir. This accident has taken place on 13.12.1994. The matter was not reported to

the police either by the appellant or driver of the tractor trolly namely respondent Rajbir RW2. It was only on 23.01.1995 *i.e.* after more than one month and 11 days the First Information Report was lodged with the police against respondent No.1 Raghbir.

10. Appellant Ram Sarup and respondent No.1 Raghbir belong to same village *i.e.* Khokhri Tehsil and Distt. Jind. RW2 Rajbir the driver of the tractor has admitted that Ram Sarup had litigation with respondent No.1 Raghbir. Raghbir has stepped in the witness box as RW1 and he stated that Ram Sarup appellant has inimical towards him. They were having criminal and civil litigations for the last 30 years. Thus, in these circumstances the false implication of respondent No.1 cannot be ruled out.

11. In view of my aforesaid discussion, I do not find any scope to interfere with the findings recorded by the learned Tribunal.

12. Thus, keeping in view my aforesaid discussion, the present appeal, being without any merit, is hereby dismissed.

09.08.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No