

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

FAO-74-1999 (O&M)
Date of decision: 03.05.2016

Karnail Singh

...Appellant

Versus

Rajinder Singh and others

...Respondents

CORAM:HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Daleep Singh, Advocate for the appellants.

Mr. Sanjeev Roy, Advocate for
Mr. Navin Kapoor, Advocate
for respondent No.3

JITENDRA CHAUHAN, J.

The instant appeal has been preferred by the appellant-claimant against the impugned Award dated 14.09.1998, passed by learned Motor Accidents Claims Tribunal, Bathinda, (for short, 'the Tribunal').

2. The learned counsel for the appellants contends that the learned Tribunal wrongly dismissed the claim petition filed by the claimant-appellant by holding that the accident in question did not take place due to the negligence of respondent No.1. It is further contended that respondent Nos.1 and 2 have

not denied the accident. The accident has been duly proved by the claimant-injured while appearing as AW6. Although the occurrence was narrated in a different manner by AW3, Guranditta Singh, however, he has consistently deposed that the accident in question occurred due to rash manner of driving by truck driver and thus, his deposition ought not have been discarded by the learned Tribunal. Moreover, no rebuttal evidence had been led by respondent Nos.1 and 2 to refute the claim of the claimant. In support of his contentions, the learned counsel has placed reliance upon **Bimla Devi and others** Vs. **Himachal Road Transport Corporation and others**, 2009(3) RCR (Civil) 805 (SC).

3. On the other hand, the learned proxy counsel for respondent No.3 states that the learned Tribunal has rightly rejected the claim of the appellant.

4. I have heard the learned counsel for the appellant and perused the record.

5. As per the version of the claimant, the truck No.RJ-13G-1432 being driven by respondent No.1 at a very high speed came from opposite side struck against his scooter while he reached near bus stand, Village Guru Sar Sahnewala. Contrary to it, his own eye witness, namely, Guranditta Singh, while

appearing as AW3 had given different version that the truck in question came from behind and hit the scooter. He had stated that at the time of accident, his jeep was behind the scooter of the claimant and the truck passed his jeep and then hit into the scooter. The claimant, Karnail Singh had stated that the truck came from the opposite direction and at that time, Guranditta, AW-3 was present at the bus stand, whereas, Guranditta had stated that he was coming on jeep behind the scooter of the injured. Therefore, there is absolute contradiction in the statements of the injured as well as eye witness, AW-3 Guranditta. No doubt, the claimant has suffered injuries, however, he has miserably failed to prove that the accident had taken place due to the negligence of respondent No.1.

6. In view of the above, it is held that there is no irregularity or perversity in the award passed by the learned Tribunal. The ratio of the reported case cited by learned counsel for the appellant does not apply to the facts of the instant case.

Dismissed.

03.05.2016

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**(JITENDRA CHAUHAN)
JUDGE**