

206.

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

FAO No.2135 of 2005 (O&M)

Date of decision:15.03.2016

Dilbagh Singh

... Appellant

versus

Sham Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Ravinder Mohan Suri, Advocate,
for the appellant.

Mr.A.D.S. Sukhija, Advocate,
for respondent No.1.

Ms. Vandana Malhotra, Additional Advocate General,
Punjab.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The appeal is against the dismissal of the petition for a claim for injuries suffered in a motor accident. The accident had taken place on 04.07.2010 at about 8:30 PM when the claimant was said to be travelling in a scooter and dashed against a tractor by the rash and negligent driving of the tractor that belonged to the PWD Department. The vehicle had no registration number and the trolley attached to it also had no registration number. The claimant had taken to the hospital and he was not in a fit state to give statement on

the following day on 05.07.2010. The police recorded a statement of the claimant giving the name of the driver, which according to him, had been given to him by one of his friends. The driver gave evidence at the time of trial that there was no scope for the vehicle to go to the particular place where the accident had taken place and that at the relevant time on 04.07.2010, the vehicle was very much lying parked in the office of PWD. The logbook for the tractor was also produced to vouch for the truth of the contention of the driver.

2. The Tribunal reasoned that if the whole case was to be anchored on an information obtained by the plaintiff about the identity of the driver and the vehicle and that information was through a third party, the non-examination of the person, who supplied that information, was material. The whole weight of the case of the petitioner was that a criminal case had been registered against the driver of the PWD and that itself was a proof of the involvement of the vehicle.

3. I must observe that the quality of evidence is too shaky to merely rely on the fact of registration of complaint as establishing the involvement of the vehicle as well. The Tribunal has correctly reasoned that the non-examination of the person, who had supplied information about the name of the driver was material. I do not find any error for interference.

4. The counsel says that the party has suffered permanent disability for the fracture of the lower limb. Section 163 of the Motor Vehicles Act provides for a release of compensation for hit-and-run cases which has resulted in a permanent disability. I will allow the consideration for the compensation of ₹25,000/- as a hit-and-run case as provided under the aforesaid provisions and if such a request is made through a petition before the competent authority, the authority will condone the delay, if any, in filing the petition and also take the finding regarding the injuries suffered by the party as resultant to use of a motor accident and provide for compensation in accordance with law, with interest as admissible.

5. The appeal is dismissed but with the liberty to prosecute in another forum as set out above.

(K.KANNAN)
JUDGE

15.03.2016
sanjeev