

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

FAO-52-2009 (O&M)
Date of decision: 17.05.2016

Babu Lal @ Lal Babu

...Appellant

Versus

Akash Khokhar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Shilak R. Hooda, Advocate
for the appellant.

Mr. Rahul Vats, Advocate and
Mr. Bhupender Saroha, Advocate
for respondent Nos.1 and 2.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

-.-

JITENDRA CHAUHAN, J.

The present appeal is directed against the impugned award dated 21.10.2008, passed by learned Motor Accidents Claims Tribunal, Sonapat (for short, 'the Tribunal').

Briefly stated the facts of the case are that on 16.11.2005, at about 8.30 p.m., the appellant was riding a bicycle near Indira Colony, Sonapat and while he had just crossed the road, respondent-Akash Khokhar, driving a motorcycle bearing registration No.DL-4SA-C-3034 rammed into his bicycle due to which appellant fell down and suffered multiple injuries. He was removed to General Hospital, Sonapat with the assistance of the respondent-driver and another

person. He spent Rs.15,000/- on his treatment and sought a sum of Rs.5,00,000/- as compensation on account of injuries suffered by him. The claim of the appellant did not find favour with the learned Tribunal. Feeling aggrieved, he filed the instant appeal.

I have heard the learned counsel for the parties and perused the record.

There is no force in the contention of the learned counsel for the appellant that it is a case of contributory negligence, he fairly conceded that the smell of alcohol was coming from the appellant as stated by the treating doctor, however, the learned counsel states that consumption of alcohol in limited quantity which is not prohibited does not render a person ineligible to ride a bicycle. Nonetheless, this Court is unable to subscribe to this view. Therefore, keeping in view the specific statement of independent witness, PW3-Dr. Yogesh Goel that the appellant was smelling of alcohol and was disoriented at the time of the mishap, no interference is called for in the impugned award passed by the learned Tribunal when the appellant himself is responsible for the accident in question. In fact the motor cyclist is the aggrieved party in the present case.

Hence, the present appeal is dismissed.

17.05.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**