

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 7095 of 2010 (O&M)
Date of Decision : 04.10.2016

Ishwar Singh

....Appellant

Versus

Pintu Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Gopal Sharma, Advocate
for the appellant.

Mr. Naresh Kumar, Advocate
for Mr. R.D. Yadav, Advocate
for respondent no. 2.

Mr. J.S. Chatrath, Advocate
for Mr. Ashwani Talwar, Advocate
for respondent no. 2.

Surinder Gupta, J. (Oral)

Heard.

Claim petition filed by claimant-Pardeep Kumar under Section 163-A of the Motor Vehicles Act, 1988, claiming compensation for the injuries suffered by him, in the accident while travelling in TATA 909 bearing registration No. HR-47-A-1213 (later referred to as 'the offending vehicle') was dismissed by the Motor Accident Claims Tribunal, Rewari (later referred to as 'the Tribunal') with the observation that claimant has failed to prove that he suffered injuries while using the offending vehicle.

Learned counsel for the appellant has drawn my attention to discharge slip issued by S.M.S. Medical College and Hospital, Jaipur and argues that as per this discharge slip, the injured was admitted in hospital

on 21.08.2006 and was discharged on 24.08.2016. The accident had taken place on 20.08.2006, which shows that date of admission of claimant in hospital commensurate with date of accident. He further argues that in this discharge slip it is mentioned that it was a case of road side accident on 20.08.2006. He further refers to complaint lodged by owner of the offending vehicle wherein he stated that the offending vehicle met with an accident with a *tralla* in which driver of the offending vehicle and *khalasi* received minor injuries.

Relying on both the aforesaid documents, learned counsel for the appellant submits that it is proved that claimant suffered injuries in the accident while travelling in the offending vehicle.

On perusal of both the aforesaid documents, I find that these cannot be connected with claimant as in discharge slip there is no reference as to in which road side accident, injuries were suffered by claimant. No medical evidence was produced by claimant to prove that injuries mentioned in discharge slip were suffered by him in a road side accident. In the complaint made by respondent no. 2-Sumer Singh regarding the accident of the offending vehicle no reference is made about presence of claimant in the vehicle. The onus was on claimant to prove that he was travelling in the offending vehicle when it met with an accident. Though, claimant has produced medical evidence, bills etc. but no evidence was produced by calling driver of the offending vehicle or by producing any other evidence that he suffered injuries because of user of the offending vehicle, which allegedly met with an accident.

In the absence of any evidence, the Tribunal has rightly

observed that claimant has failed to prove that he suffered injuries while travelling in the offending vehicle and I find no reason to differ with the finding recorded by the Tribunal or to interfere with the same.

Consequently, this appeal has no merit and the same is dismissed.

October 04, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No