

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 6559 of 2012 (O&M)
Date of Decision : 19.02.2016

Reliance General Insurance Co. Ltd.Appellant

Versus

Amar Deep and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Kaavya Zariyal, Advocate
for Mr. T.K. Joshi, Advocate
for the appellant.

Ms. Avnika Gupta, Advocate
for Mr. Vinod Sharma, Advocate
for respondent no. 1.

Surinder Gupta, J.

This is appeal by Reliance General Insurance Co. Ltd. against the award dated 25.07.2012, passed by the Motor Accident Claims Tribunal, Rewari (later referred to as 'the Tribunal') whereby compensation of ₹75,930/- was awarded to claimant- Amar Deep for the injuries suffered by him in a motor vehicle accident with car bearing registration no. DL-7CC-1152 (later referred to as 'the offending vehicle')

2. Case of claimant, in brief, is that on 26.11.2007 at about 10.30/11.00 a.m. he was standing near Rajvilash Samaroh Sathal, Delhi Road, Rewari and had started his Honda Activa Scooty for coming home. At that moment, the offending vehicle, which was being driven by respondent no. 2-Parkash in a rash and negligent manner, came from the side of Delhi and dashed against him, as a result of which, he sustained various serious

and grievous injuries. Claimant was taken to Shree Krishan Hospital, Rewari by his brother Karamjit and friend Rinku, from where he was referred to St. Stephen Hospital, Delhi. He remained hospitalized for two days and was discharged on 29.11.2007 after operating his right shoulder for fracture injury. He spent an amount of ₹1 lac on his treatment, which was continuing and he claimed a compensation of ₹15 lacs, for the injury suffered by him.

3. In the joint written statement filed by respondents no. 2 and 3 i.e. driver and owner of the offending vehicle, it was denied that the offending vehicle was involved in the accident. Respondents no. 2 and 3 alleged that a false case has been got registered by the claimant in collusion with the local police.

4. Appellant (Reliance General Insurance Co. Ltd.), insurer of the offending vehicle, also contested claim petition denying the accident with offending vehicle.

5. On appraisal of evidence, the Tribunal observed that claimant had suffered injuries in the accident with the offending vehicle due to its rash and negligent driving by respondent no. 2.

6. Learned counsel for the appellant has argued that it is a case where the offending vehicle was falsely involved in the accident just to get compensation. The claimant had reported the matter to the police after 21 days of the accident and there is no explanation for delay in lodging the FIR. This shows that FIR was

the result of collusion between claimant and respondents no. 2 and 3.

7. On perusal of reply to claim petition filed by the appellant-Insurance Company, I find that no plea was raised by the Insurance Company to the effect that the offending vehicle was involved in this case by claimant in collusion with respondents no. 1 and 2. A plea was raised that the accident had taken place due to rash and negligent driving of the Honda Activa Scooty by claimant.

8. Claimant, while appearing as PW-4, has stated that after the accident he was admitted in the hospital. Thereafter, the doctor advised him rest and he moved complaint before the police on the basis of which formal FIR (Ex. PJ) was registered on 17.12.2007. The police had investigated that FIR and presented the final report under Section 173 Cr.P.C. against respondent no. 2, who was arrested on 31.01.2008 and the offending vehicle was also taken in possession on that day.

9. This argument was also raised before the Tribunal and rejected on the ground that delay in lodging the FIR is no reason to discard the statement of claimant. In this case, the appellant and respondents no. 2 and 3 have not produced any evidence to rebut the statement of claimant. The Tribunal relying on observations in the case of **Ravi vs. Badrinarayan and others, 2011 (2) RCR 190**, has observed that if there is delay in lodging the FIR, the claim petition cannot be dismissed merely on that ground.

10. As already discussed, it is nowhere the case of appellant that claim petition is the result of collusion between claimant, driver and owner of the offending vehicle. It is proved on file that driver of the offending vehicle was also found guilty by the police in its investigation and final report under Section 173 Cr.P.C. was presented against him in Court.

11. In view of above facts and circumstances, I find no legal or factual infirmity in observations of the Tribunal discarding the argument of Insurance Company about delay in lodging the FIR.

12. No other argument has been raised by learned counsel for the appellant.

13. The instant appeal has no merits and the same is dismissed.

February 19, 2016

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**(SURINDER GUPTA)
JUDGE**

Whether to be referred to the Reporters? Yes/No