

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

**FAO No. 2940 of 2016 (O&M)
Date of decision: May 20,2016**

Pepsu Road Transport CorporationAppellant

Versus

Roop Kaur and othersRespondents

CORAM: HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr. Harsh Chopra, Advocate
for the appellant.

HARINDER SINGH SIDHU, J.

For the reasons mentioned in the application, delay of 84 days in filing the appeal is condoned subject to all just exceptions.

Pepsu Road Transport Corporation, Patiala has filed the present appeal through its General Manager challenging the award dated 18.11.2015 passed by Motor Accident Claims Tribunal, Patiala (for short, the Tribunal) whereby, compensation of Rs.3,60,000/- was awarded to Roop Kaur for the injuries suffered by her in a vehicular accident on 20.03.2014 involving Bus No. PB-11-BF-7375.

Brief facts of the case are that on 20.03.2014, respondent Roop Kaur, aged 45 years, was coming from Rajpura to her home at Village Alampur. She alighted from the three-wheeler near bus stand of Alampur and started towards her home on foot. In the meantime, bus bearing No.PB-

11-BF-7375 came from Banur side, driven by respondent No.2-Gurjit Singh at high speed and struck her. Roop Kaur received grievous injuries on her head. Her left leg and hip were fractured. Gurjit Singh-driver of the bus ran away from the spot after seeing her condition. FIR No. 64 dated 18.05.2014 was registered against Gurjit Singh under Sections 279, 337 and 338 of IPC at Police Station Shambhu.

The claimant-Roop Kaur filed petition under Section 166 of the Motor Vehicles Act, 1988 pleading that she is 45 years old and is running stitching centre at her home and earning Rs.15,000/- per month.

Upon notice, respondent No.2-Gurjit Singh filed written statement controverting the case of the claimant and denying the fact the accident took place due to his rash and negligent driving. He also averred that he was falsely implicated in the case. Appellant – PRTC filed separate written statement by taking pleas that the present claim petition is not maintainable and the claimant has no locus standi to file the present claim petition.

Pleadings of the parties led to the framing of following issues:-

- “1. Whether on 20.3.2014 at about 6.45 pm at GT road bus stand Alampur, Roop Kaur son of Karnail Singh received multiple fracture (injuries) due to rash and negligence of offending vehicle driven by respondent No.1? OPP*
- 2. Whether the claimant/injured is entitled to the compensation and from whom? OPP*
- 3. Whether the claim petition is not maintainable? OPR*
- 4. Whether the claimant has no locus standi to file the present claim petition? OPR*
- 5. Relief.”*

On appreciating the evidence led by the parties, the Tribunal

awarded compensation as under:-

Head of Compensation	Amount (In Rs.)
Medical Expenses	2,14,000/-
Hospitalization charges and attendant charges	50,000/-
Pain and Sufferings	50,000/-
Special Diet	25,000/-
Loss of Income	21,000/-
Total Compensation	3,60,000/-

Challenging the impugned award, the learned counsel for the appellant has contended that there is delay of about 2 months in lodging the FIR. Further, there is no eye-witness to the accident. It is also contended that the driver of the offending bus could not appear before the Tribunal to rebut the claim of the injured, as he was terminated from service on account of indiscipline.

So far as the delay in lodging the FIR is concerned, it has come on record that though the accident had taken place on 20.03.2014 and the FIR was lodged on 18.05.2014, but information regarding the accident (Exhibit P31) was given to the police on 21.03.2014 i.e. the very next day of the accident. The police officials visited the hospital to record the statement of injured Roop Kaur, however, she was declared unfit to make statement. It has also come on record that husband of the injured, Karnail Singh met the police officials and told them that he will inform the police authorities when his wife is well. The injured was discharged from the hospital on 28.04.2014, but thereafter her statement was not recorded by the police authorities. In these facts and circumstances, when the injured remained admitted for 38 days in the hospital, the delay in lodging of FIR cannot be

attributed to her. The Tribunal also took note of the evidence that the FIR was registered against Gurjit Singh-the driver of the offending bus and the said bus was got released by the PRTC on Sapurdari. After investigation, the police also found Gurjit Singh guilty for the offence under Section 279,337 and 338 IPC and charge-sheeted him accordingly. Even the Judicial Magistrate Ist Class, Rajpura also framed charges against the driver of the offending bus for the said offences.

The oral evidence of the injured claimant also adds weight to the above. She while appearing in the witness-box as PW3 specifically stated that the accident took place due to rash and negligent driving of the offending bus by respondent - Gurjit Singh.

To assert that the delay in lodging the FIR was fatal to the case of the claimant injured. Learned counsel has relied upon **BITTU VS. HUKUM CHAND AND OTHERS 2014(1) W.L.N.588**. In the said case the accident had taken place on 15.06.2007 and the FIR was registered on 03.09.2007 by the brother of the claimant. There was no justification for the delay. Neither any information immediately after the accident was given to the police nor the police ever visited the injured after the accident.

Such is not the position here. Police was informed on the next date of the accident i.e. on 31st March,2014 and the police officials also visited the hospital to record the statement of injured Roop Kaur but it could not be recorded as she was unfit to make statement. So the facts of the case cited are distinguishable from the present case. Therefore, it is held that the delay in lodging the FIR is well explained in the present case and thus cannot be said to be fatal to the case of the claimant injured.

So far as non-examination of driver Gurjit Singh by the appellant Corporation is concerned, on notice of the claim petition, Gurjit Singh had appeared before the Tribunal. Though he filed written statement denying the accident as result of his rash and negligent driving, but he did not step in the witness box to deny the factum of accident. In these circumstances without leading cogent evidence to rebut the case set up by the claimant appellant, the appellant Corporation cannot be absolved of its liability only by taking the plea that Gurjit Singh had been terminated. It may be noticed that the appellant Corporation could rely on other evidence in the form of duty roster, presence register, vehicle route register, etc., in support of their plea that the offending vehicle was not involved in the accident. This was not done.

In the light of the above there is no reason to upset the finding recorded by the Tribunal on the issue of rash and negligent driving. Thus, the contentions raised are devoid of merit and the same are rejected.

No other point was raised.

Appeal is dismissed.

MAY 20, 2016

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(HARINDER SINGH SIDHU)
JUDGE