

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3227 of 2016 (O&M)
Date of Decision : 27.07.2016

United India Insurance Co. Ltd.

.....Appellant

Versus

Pooja and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ram Avtar, Advocate
for the appellant.

Surinder Gupta, J.

United India Insurance Co. Ltd. has filed this appeal challenging award dated 15.02.2016, passed by Motor Accident Claims Tribunal, Karnal (later referred to as 'the Tribunal') awarding compensation of ₹99,000/- on account of injuries suffered by respondent no. 1-Pooja in a motor vehicle accident with vehicle bearing registration No. DL-3C-AA-2902 (later referred to as 'the offending vehicle').

2. Learned counsel for the appellant has challenged the award on the sole ground that there was delay of 21 days in reporting the matter to police vide FIR No. 509 dated 15.09.2014 while the accident took place on 24.08.2014. Ram Kishan, alleged eye-witness, who reported the matter to police, is relative of claimant and there was no reason for him to remain silent for such a long time. This delay leads to inference that the offending vehicle has been planted only with a view to get compensation.

3. Case of claimant, in brief, is that on 24.08.2014, Subhash alongwith his sister Pooja was going on motorcycle bearing registration no. HR-05AL-1296 from Gharaunda to Karnal. When they reached near Gharaunda towards Karnal, the motorcycle was hit by wheel of the

which both Subhash and claimant-Pooja fell on the road and suffered multiple grievous injuries. Both the injured were taken to General Hospital, Karnal from where Subhash was referred to PGI, Chandigarh but was taken to Virk Hospital, Karnal and then was shifted to MAX Super Specialty Hospital, Mohali because of his critical condition. He remained admitted there upto 13.10.2014. Respondent no. 1-Pooja was also referred to PGI, Chandigarh but was taken to Dr. Vineet Bhai, Arvind Hospital, Duggal Colony, Karnal, where she remained admitted from 24.08.2014 to 30.08.2014 and was receiving treatment even till filing of claim petition.

4. Respondents no. 2 and 3 i.e. driver and owner of the offending vehicle in their written statement denied the accident but did not produce any evidence in support of their contention. Even driver of the offending vehicle did not turn up to depose his own version regarding the accident.

5. Award of Tribunal has been challenged on the ground that the matter was reported to police after 21 days of accident. Considering the effect of delay in reporting the accident to police, Apex Court in **Ravi vs. Badrinarayan and others, 2011 (4) SCC 693** has observed in paras 20 and 21 as follows:-

“20. It is well-settled that delay in lodging FIR cannot be a ground to doubt the claimant’s case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the Police Station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the Police Station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the Police. Delay in lodging the FIR thus, cannot be a ground to

deny justice to the victim. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so; the contents of the FIR should also be scrutinized more carefully. If court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground.

21. *The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons.”*

6. In every case of accident, where injuries are caused the first priority is to provide medical aid to the victim. In this case both the injured had suffered multiple grievous injuries and were taken to hospital. No doubt Ram Kishan is relative of both the injured but condition of Subhash, one of the injured was critical. If the family of injured had concentrated on his treatment before reporting the matter to police, this cannot be a reason to

the police three weeks after the accident does not lead to draw inference of false implication of offending vehicle in the accident or to discard the statement of eye-witness Ram Kishan, who has stated that rear tyre of the offending vehicle was bubbling as its nut-bolts were loose and respondent no. 2-Sonu Baberwal was driving it at a fast speed, when wheel came out of the vehicle and hit the motorcycle of claimant.

7. There is nothing on record to show that claimant(s) were in any manner inimical towards driver of the offending vehicle so as to falsely implicate him in a false case. Submissions made by learned counsel for the appellant in this regard have no merit, as such, discarded.

8. No other argument has been advanced by learned counsel for the appellant.

9. In view on my discussion above, I find no legal or factual infirmity in the award passed by the Tribunal calling for any interference in this appeal, which has no merit.

Dismissed.

July 27, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No