

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

FAO-8486-2015 (O&M)

Date of decision: 28.04.2016

Kishan

...Appellant

Versus

Kaushal Singh and others

...Respondents

CORAM:HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Bikram Chaudhary, Advocate
for the appellant.

JITENDRA CHAUHAN, J.

The instant appeal has been preferred by the appellant-claimant against the impugned Award dated 31.10.2015, passed by learned Motor Accidents Claims Tribunal, Faridabad, (for short, 'the Tribunal').

2. The learned counsel for the appellant contends that the learned Tribunal wrongly dismissed the claim petition filed by the claimant-appellant by holding that the accident in question did not take place due to the negligence of respondent No.1 . The fact that respondent No.1 faced criminal trial, is sufficient to prove that he was negligent. The accident has been

duly proved by the claimant-injured and other witnesses. The findings of learned Tribunal are based on assumptions and the same are not sustainable in the eyes of law.

3. I have heard the learned counsel for the appellant and perused the record.

4. As per the version of the claimant on the night of 29.06.2014, he along with his son Gyanender was walking from village Tilgaon to their own village since no vehicle was available. Gyanender made a call to his brother Anil (son of the claimant) to come and pick them up. Anil came on his motorcycle near SDIMT college and while all three of them were standing near the motorcycle, the tractor in question came in a rash manner and hit the motorcycle due to which the appellant sustained multiple injuries. As per the version of injured Kishan, the accident took place on the right side of the road, whereas, PW-3, Anil had stated that the accident took place on kacha path. Further, the claimants' version is that they were taken to hospital by Sunil, son of the appellant, whereas, he was not present on the spot. It has not come on record that Anil who was present on the spot accompanied the injured to hospital. The factum of nabbing of respondent No.1 was not mentioned in the FIR. No evidence has come on record to prove the MLR of the injured. Thus, there

are material contradictions in the statements of the injured as well as eye witness, PW-3 Anil. No fault can be found with the findings recorded by the learned Tribunal that the appellant has failed to prove that the accident took place due to the rash or negligent driving of the respondent No.1-driver. Thus, the compensation was rightly denied to appellant.

5. In view of the above, it is held that there is no irregularity or perversity in the award passed by the learned Tribunal.

Dismissed.

28.04.2016

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**(JITENDRA CHAUHAN)
JUDGE**