

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

FAO No.2284 of 2003.

Decided on:-April 18, 2017.

Piare Lal.

.....Appellant.

Versus

Rahman Khan and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. R.S. Mamli, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.3-insurance company.

HARI PAL VERMA, J.

The appellant-claimant has filed the present appeal against the award dated 21.04.2003 passed by learned Motor Accidents Claims Tribunal, Kurukshetra (hereinafter referred to as the Tribunal) vide which the claim petition under Section 166/140 of the Motor Vehicles Act, 1988 (hereinafter referred to as the Act) filed by the appellant-claimant, was dismissed.

Briefly stated, the claimant has filed a claim petition under Section 166/140 of the Act seeking compensation on account of injuries sustained by him in a motor vehicular accident which took place on 16.02.2001. As per the claim petition, the claimant aged about 40 years, was working as a servant. On 16.02.2001 at about 10.00 p.m. after loading

potatoes in the truck bearing registration No.HR-47-6781 from cold store, the claimant was coming towards Grain Market, Shahabad. When the truck reached Anaj Mandi Chowk, Barara Road, Shahabad, the claimant got stopped the truck for alighting, so as to go to his house. While he was in the process of getting down from the truck, the respondent No.1 without caring for the claimant, started the truck suddenly in a rash and negligent manner, due to which his foot entangled in the stair-pad of the truck. The truck-driver did not stop the truck in spite of hue and cry made by the claimant. His leg was fractured at two places. The accident was caused due to rash and negligent driving of the respondent No.1 i.e. driver of the truck. The claimant remained unconscious in the hospital for three days. The respondents No.1 and 2 in collusion with the police manipulated a wrong DDR by twisting the facts so as to save themselves from criminal liability. They have taken the signatures of the family members of the claimant and the claimant on some blank papers.

The respondents denied the ocular of very accident. Rather, they have pleaded that the claimant himself has given a writing to the Police Post Shahabad that he fell down and there was no fault or negligence of respondent No.1.

After perusing the evidence, the Tribunal found that on 16.02.2001 while the claimant was sitting on the bags of potato loaded in the offending truck and when the truck had reached the Chowk of Anaj Mandi on Barara Road at about 10.00 p.m., the claimant got the said truck stopped for alighting from the truck, so as to go to his house. While the claimant was

getting down from the said truck, he received injuries. Though the claimant has alleged rash and negligent driving of the respondent No.1 i.e. driver of truck bearing registration No.HR-47-6781, but as per the version of the respondents, the leg of the claimant got entangled in his trousers due to which he fell down and received injuries. Thus, vide impugned award dated 21.04.2003, the Tribunal had dismissed the claim petition by holding that the respondent No.1 was not rash and negligent while driving the offending truck.

Learned counsel for the appellant has argued that the Tribunal has not taken into consideration the fact that even if there is no FIR, still the insurance company or the driver, who negligently caused the accident are responsible to pay the compensation. The DDR has been lodged and the appellant has fully proved the negligence of driver of the truck. Therefore, the claimant is entitled to the compensation on account of injuries suffered by him in the accident.

I have heard learned counsel for the appellant-claimant.

After having gone through the evidence on record, the Tribunal found that on 16.02.2001, while the claimant was sitting on the bags of potato loaded in the truck and when the said truck reached the Chowk of Anaj Mandi on Barara Road at about 10.00 p.m., the appellant-claimant got the truck stopped for alighting from the truck so as to go to his house. It is during this process when he was getting down from the truck, the claimant received injuries. Thus, it is only when the appellant was alighting from the stationary truck, he fell down, because his leg was entangled in his own

trousers and subsequently, his leg was entangled in the stair-pad of the truck due to which he received injuries. Therefore, the Tribunal has rightly held that the driver of the truck i.e. respondent No.1 was not negligent and the claimant received injuries on account of his own fault.

In view of the above, this Court does not find any illegality in the impugned award dated 21.04.2003 passed by the Tribunal. Thus, affirming the impugned award, the present appeal, being devoid of any merit, is dismissed.

April 18, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No