

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

FAO No.1562 of 2001 (O&M)
Date of Decision: May 19, 2017

Dharampal

..Appellant(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Jitender K. Sehrawat, Advocate for
Mr. N.S. Shekhawat, Advocate
for the appellant.

Mr. Lalit Garg, Advocate
for respondent no.3-Insurance Company.

ANITA CHAUDHRY, J.

This is the claimant's appeal aggrieved by the award dated 01.09.2000, vide which his claim seeking damages to his tempo was rejected.

An accident had occurred on 10.08.1999. Claimant Dalip Kumar was travelling in a tempo. The accident took place with a Haryana Roadways bus. It was claimed that Dalip Kumar sustained injuries and the tempo was badly damaged. The FIR regarding this accident was also reported. Two claim petitions were filed, one for the injuries and one for the damages to the tempo. Both the claim petitions were consolidated.

Dharampal had examined himself and had examined Kishori Lal PW-6, a mechanic. The claimant had stated that he had spent Rs.50,000/- on the repair of his tempo and he used to earn Rs.3,000/- per month as he was giving it on hire to Dalip and since the tempo was badly damaged he had suffered loss in the income also. Kishori Lal PW-6 had stated that he had charged Rs.21,800/- and had issued a receipt Ex. P-5 and he took one and a half month to repair it.

Jagdish PW-7 had inspected the tempo and had prepared the estimate.

The Tribunal noted that there was no evidence to show the damage was caused to the tempo and the receipt was on a plain paper and not a regular receipt book and the receipt had been issued after two months. The claim petition was dismissed.

Counsel for the appellant submits that when the accident had been proved and the statement of the claimant had gone un-rebutted then compensation should have been allowed to them. The counsel further submits that the registration certificate is available on the record and it was a second-hand purchase by the claimant.

The submission on the other hand was that the receipt produced by the claimant was on a plain paper and the vehicle was not repaired at a regular workshop and it was an old tempo and the registration certificate would show that it is registered in 1991 and Ramdhan is shown to be the owner and Dharampal had stated that he had purchased it in 1996 for Rs.36,000/-. It was urged that the value of

a vehicle depreciates and no-one would spend Rs.25,000/- on a nine year old vehicle.

Admittedly a FIR had been lodged in this case. The police would have taken both the vehicles into their custody. A mechanic would have tested the vehicles and the photographer would have taken photographs. All that material was kept away from the Tribunal. The claimant had produced the registration book but the vehicle stands in the name of some other person. It was not even proved that he had purchased the vehicle. The claimant had produced a mechanic who had issued a receipt which was on a plain paper and was rightly rejected. I find no infirmity in the findings recorded by the Tribunal.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

May 19, 2017
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No