

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 440 of 2001 (O&M)
Date of Decision: 05.5.2017

Harjinder Singh

.....Appellant

Versus

Jagtaran Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. S.S.Rathore, Advocate
for the appellant.

Mr. Paul S. Saini, Advocate
for respondent No. 2.

ANITA CHAUDHRY, J

This appeal is by the claimant whose claim petition was dismissed by the Tribunal.

The appellant met with an accident on 5.9.1997 at 5.00 P.M. A truck driven by respondent No. 1 is stated to have struck his cycle from behind. The claimant suffered injuries which led to amputation of his right leg and finger of the right hand. It was claimed that the matter was reported to the police but they did not register the FIR.

Respondent No. 1 and appeared and admitted the accident but pleaded that the accident occurred on account of the negligence of the claimant.

The claimant alone stepped into the witness box and described the manner of the accident and stated that he had suffered disability to the tune of 85%. In the cross-examination he stated that he had fallen

unconscious after the accident. The Tribunal noted that no DDR or FIR had been lodged and no record from the hospital where he was first taken or to the hospital where he was subsequently shifted was produced. It was noted that the claimant had not disclosed as to who had taken him to the hospital. It was held that the claimant had failed to prove the involvement of the vehicle and the driver. The claim petition was dismissed.

The records have been received and perused.

Counsel for the appellant has urged that since respondent No. 1 had admitted the involvement of the vehicle, therefore, no other evidence was required and the claim should have been allowed and the matter be remanded to the Tribunal to calculate the compensation.

The submission on the other hand was that there is no FIR or any DDR and there is no eye witness and it is only when the claim petition was filed in January 1998 that the details of the vehicle had come. It was urged that it was a case of hit and run and the record from the hospital had not been summoned nor there is any evidence as to who took the injured to the hospital and it was not possible for the claimant to note the details of the vehicle as the injuries suffered by the claimant left him unconscious and it is difficult to believe his statement that he could have noted the details. It was urged that a vehicle has been introduced and therefore respondent No. 1 had admitted the involvement. It was urged that the cycle was allegedly hit from behind and, therefore, there was no occasion for the claimant to even see the vehicle or retain the details.

The documents which were made available on the record only show the disability certificate and some receipts that the claimant was admitted late at night in PGI, Chandigarh. It is not clear as to which

hospital the claimant was firstly taken. There is no explanation as to why no complaint was given to the police. If the police was not registering the FIR, the claimant would have approached the higher authorities. The reasons are obvious. The involvement of respondent No. 1 had not been proved. It was a case of hit and run. The mere fact that respondent No. 1 had admitted the claim was not sufficient to award any compensation. There was collusion between the two. There is no infirmity in the findings record by the Court below.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

May 05, 2017

Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes