

336

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4456-2001

Date of Decision: 03.08.2017

Sanjay

...Appellant

V/s.

Prem Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Anil Shukla, Advocate for the appellant.

Ms. Mamta Singla Talwar, DAG, Haryana.

AMIT RAWAL, J. (Oral).

The appellant-injured was facing a trial in a criminal matter while being taken in a police bus, met with an accident with a truck and sustained injuries resulting into crushing of the right hand i.e. 50% disability, has sought enhancement of compensation (i.e. ₹25,000/-) awarded.

Mr. Anil Shukla, learned counsel appearing for the appellant submits that since the appellant received injuries and was admitted in hospital, he could not note down the number of truck, but he had made a complaint to police that it was negligent driving of the police bus resulting into the accident and, therefore, he impleaded the owner and driver of the bus by filing petition under Section 166 of the Motor Vehicles Act. Since there was no eye-witness, the learned MACT rejected the claim petition by awarding compensation of ₹25,000/- on account of 'no fault liability' but the fact remains that the FIR written by the appellant reflects the appellant appended thumb impression showing that he actually received the injury on

the right hand doctrine of *res Ipsa Loquitur* should have been applied urging this Court to set aside the order dated 04.05.2001.

Ms. Mamta Singla Talwar, Deputy Advocate General appearing on behalf of the State submits that appellant has failed to prove the negligence and rashness of driver of the police bus and, therefore, liability cannot be fastened upon the State, infact the accident occurred on account of truck being driven negligently. Therefore, rightly so the compensation has not been given.

I have heard learned counsel for the parties and appraised the paper book and am of the view that in a case where the appellants have filed petition under Section 163-A of the Motor Vehicles Act, claimants are not required to prove the negligence, perhaps could have been able to get compensation by having cap of ₹40,000/- per annum but the principle of *res Ipsa Loquitur* could have been applied for the purpose of determining the compensation on account of the permanent disability as noticed above but in the absence of any eye-witness holding the rashness driving except the self made statement would not have sufficient question of law to establish the negligence of police bus to fasten the liability upon the State. In my view, findings of the MACT do not call for interference.

Appeal is dismissed.

August 03, 2017
Divyanshi

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No