

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.4436 of 2006

Date of Decision.15.09.2017

Rajbir

.....Appellant

Vs

Tilak Raj and others

.....Respondents

2. FAO No.4437 of 2006

Ramphal

.....Appellant

Vs

Tilak Raj and others

.....Respondents

3. FAO No.4438 of 2006

Vinod Kumar Sharma

.....Appellant

Vs

Tilak Raj and others

.....Respondents

Present: Mr. Naveen, Advocate for
Mr. Pankaj Bali, Advocate
for the appellant.

Mr. Paul S. Saini, Advocate with
Mr. Vipul Sharma, Advocate
for the insurance company.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

-.-

AMIT RAWAL J.(ORAL)

This order of mine shall dispose of three appeals preferred by the claimants i.e. Rajbir, Ramphal and Vinod Kumar Sharma said to have suffered injuries in the accident occurred on 29.4.2001. The case set up by the claimants before the Tribunal was that they were going from Umri Chowk towards village Jirbari and after crossing Pappu Dhaba on G.T. road in the area of village Umri, a maruti car bearing registration No.DL-3CB-

3075 driven by Tilak Raj in a rash and negligent manner came from behind and hit the motor cycle, resultantly caused damaged not only to the motor cycle but also caused injuries to the aforementioned claimants.

Learned counsel for the appellants submits that the Tribunal erroneously dismissed the claim petitions on the ground that the appellants have failed to prove negligence of the maruti car. There has been mis-direction and mis-appreciation of the evidence. According to him, the car struck against the motor cycle from behind, which itself is a pointer of negligence, thus, urges this Court for setting aside the aforementioned finding for awarding compensation.

Learned counsel appearing on behalf of the insurance company submits that the story cooked by the claimants has been disproved from the documentary evidence brought on record i.e. Ex.R4 site plan, mechanical report of the car and motor cycle, Ex.R5 and R6 respectively. An FIR bearing No.108 dated 29.04.2001 under Sections 279, 337, 338, 427 IPC was registered with Police Station Sadar Thanesar against Vinod Kumar. All these factors have been thoroughly examined and weighed into the mind of the Tribunal, resulting into dismissal of the claim petitions, thus, urges this Court for dismissal of the appeal by upholding the awards passed by the Tribunal.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no merit and substance in the arguments raised by learned counsel for the appellants, for the story put forward by the claimants regarding the car having been struck from behind has been proved to be incorrect and false. The mechanical reports of both the vehicles, much less, the repair conducted on the motor cycle proved that no damage was

caused on rear side of the motor cycle. In fact, the motor cyclist had to be careful while crossing the road when the maruti car was driven at a normal speed. The motor cyclist had flouted the rules by coming on the wrong side of the road, rightly, so the Tribunal dismissed the claim petitions on the premise of having failed to prove the negligence of the driver of maruti car. Even the registration of the FIR against Vinod Kumar, driver of the motor cycle is a pointer of such negligence.

I do not find any illegality, infirmity or perversity in the awards under challenge. No ground for interference is made out. While upholding the awards passed by the Tribunal, the appeals are dismissed.

(AMIT RAWAL)
JUDGE

September 15, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable Yes