

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 6709 of 2011

Date of Decision: 13.12.2017

Paramjit Singh

.....Appellant

Versus

Charan Dass and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Ramneek Vasudeva, Advocate
for the appellant.

Mr. G.D.Gupta, Advocate
for respondent No. 3.

ANITA CHAUDHRY, J

This is the claimant's appeal aggrieved by the dismissal of his claim petition.

The claimant suffered injuries in an accident which occurred on 30.11.2009 at about 5.00 P.M. He was going on a scooter to meet his sister. He was near village Rattangarh bypass where an Indica Car driven by respondent No. 1 came from the opposite side and struck against the scooter of the claimant. He fell down and sustained injuries on his head, jaw and other parts of the body. It was claimed that the claimant became unconscious and initially was shifted to Kakkar Hospital by Raghbir Singh from where he was shifted to Indus Super Speciality Hospital, Mohali where he remained admitted for about 19 days. After his discharge in December 2009, he was again admitted for 19 days. The claimant lodged a report with the police on 12.2.2010. It was claimed that Raghbir Singh who had taken

the claimant to the hospital, was his neighbour.

At the trial, the claimant had examined Raghbir who supposedly had shifted him to the hospital. The Tribunal rejected the testimony of Raghbir as his appearance was not noted in any record. It observed that he was not an eye witness and had he been present and known to the claimant, there was no reason why he could not approach the police. It also observed that there was a collusion and therefore, the driver had tried to make a statement supporting the claimant in his cross-examination. The Tribunal also noted the contents of the affidavit furnished by the driver as there he had denied the accident and stated that no accident had taken at all but in the cross-examination he went softer and stated that Raghbir had been contacting him for compromise and had approached him 5/6 times but he had refused to make any payment.

Counsel for the appellant with all vehemence at his command urged that the injured had been shifted to the hospital within few hours and the hospital records the injuries suffered in an accident and since the claimant was unconscious he could not have reported the matter to the police. It was urged that the FIR records the fact that the driver had been approaching them for a compromise and the claimant was awaiting its outcome and that was the reason for delay in the FIR. It was urged that mere delay in lodging the FIR is not sufficient to throw out the case and the claim petition has not to be decided as if the claimants were to establish the occurrence beyond a shadow of doubt and even if there is *prima facie* evidence then there is no reason to disbelieve the statement. Reliance was placed upon ***Bimla Devi and others versus Himachal Road Trans. Corpn. and others 2009 ACJ 172, Lakhu Singh and another versus Uday Singh***

Ravi versus Badrinarayan and others 2011(2) RCR (Civil) 190.

Discussing the authorities referred to by the appellants first. Each case has to be dealt with on the basis of evidence led before it. I would only refer to the facts of ***Ravi's*** case (supra) relied upon by the appellant. In that case, the facts and the reasons for delay are referred in para 17. It mentions the fact that the person who had caused the accident was the neighbour and the police had arrived in the hospital where the injury report was prepared. It also noted the fact that the FIR could not be lodged immediately as there was local pressure and the efforts were being made to amicably settle the dispute with the driver who was the neighbour. It is in those circumstances that the Apex Court had made its observation.

Reverting to the facts of the present case. The case of the appellant is that he was initially taken to Kakkar Hospital where first aid was given and then he was referred to Indus Super Speciality Hospital, Mohali. The record of Kakkar Hospital has intentionally been kept away. No official from Kakkar Hospital was summoned to show his arrival in the hospital. It was necessary for the claimant to show that it was Raghbir who had taken him to the hospital. There is no reason or explanation why that record could not be called when the appellant had summoned the record with respect to his admission again in the same hospital in January 2010. The reasons are obvious. It would have exposed the falsity of the claimant's case.

A perusal of the record of Indus Super Speciality Hospital Ex. P-1 shows that the history given was that he had fallen from the scooter on the roadside. It does not say that he had been hit by any vehicle. It also

Raghbir Singh is a neighbour of the claimant. The claimant stated that he had accompanied him to the hospital but the record of Indus Super Speciality Hospital does not record his presence but it refers to another name namely Sukhwinder Singh who is shown to be the brother and also falsifies the fact that Raghbir was there.

No *ruqa* was sent from the hospital. No MLR was prepared. The argument made before me was that they had told the doctor not to send any intimation to the police as there were talks of settlement but Raghbir Singh does not say this. The statement of the driver of the offending vehicle makes an interesting reading. In the affidavit Ex. RW1/A he had stated that the accident had taken place on account of sole negligence of the claimant and he struck his vehicle by coming to the wrong side. In para 5 he states that his vehicle had not met with any accident and he had been wrongly involved and a false claim had been filed to get compensation. In the cross-examination he stated that after the accident he had given his name and details to one person who was present on the spot and after 15 days Raghbir had visited him and had asked him to pay the amount but he refused to give money to him but Raghbir again approached him 5-6 times. But Raghbir did not say that. No such fact was mentioned by Raghbir that he was in constant touch with the driver after 15 days of the accident. When Raghbir was taking pains and helping the claimant, there was no reason why he could not inform the police. An argument was made that the doctor had been asked not to sent *ruqa* as talks of compromise were going on but this fact had not been disclosed by the doctor nor this fact was elicited from him. The driver has tried to tow the line of the claimant and indicates collusion between the claimant and the driver. A false case had been reported to the police to

extract compensation. The claim petition was rightly dismissed. I find no infirmity in the findings recorded by the Tribunal. There is no merit in the appeal.

The appeal is dismissed.

(ANITA CHAUDHRY)
JUDGE

December 13, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No