

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

FAO No.7213 of 2011

Date of Decision.29.08.2017

Manjit Singh

.....Appellant

Vs

Baljinder Singh and another

.....Respondents

Present: Mr. Jagdeep S. Virk, Advocate
for the appellant.

Mr. Ashwani Talwar, Advocate
for respondent No.2.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The appellant is aggrieved of the dismissal of the claim petition preferred under Section 163-A of the Motor Vehicles Act.

Mr. Virk, learned counsel appearing on behalf of the appellant submits that the injured while travelling in a motor cycle, driven by Baljinder Singh, his brother-in-law, met with an accident when suddenly a stray dog came in front of the motor cycle. In order to save the dog, Baljinder Singh applied sudden brakes due to which motor cycle got imbalanced and they fell down, resulting into fracture of both bones of right leg of the claimant. In this regard, he preferred a petition under Section 163-A of the Motor Vehicles Act but the Tribunal has non-suited him on three grounds namely (i) no injuries have been sustained by Baljinder Singh; (ii) DDR is not in consonance with story and pleadings as spelt out in the claim petition and (iii) injuries have not been proved to have been caused as a result of road accident whereas there has been a misreading of statement of RW1, who unequivocally and candidly reiterated the pleadings

and the statement of the claimant.

He has already submitted medical bills and another records to show that he undergone treatment of alleged injuries. Even the doctor in this regard has also been examined to establish the surgery being performed, therefore, the award rendered by the Tribunal is liable to be set aside.

Mr. Ashwani Talwar, learned counsel appearing on behalf of the insurance company submits that in fact the claimant has failed to prove the injuries having caused as a result of road accident. DDR has been lodged after two days, in essence, the accident had taken place on 01.12.2009 whereas the DDR was lodged on 3.12.2009. Even the same is also not in consonance with the evidence and the pleadings. The contents of the DDR reveals that it was the claimant who was driving the motor cycle. The award passed by the Tribunal is perfectly legal and justified and does not call for interference, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Virk, for, neither the doctor nor RW-1, Baljinder Singh in their statements established that the appellant had suffered injuries in a road accident except that he had fallen. Intriguingly, the motor cyclist Baljinder Singh is none else but brother-in-law of the injured-claimant and had not sustained any injuries in the accident. In any case, for the injuries which are that grievous in nature, the matter could not have been reported to the police two days later. DDR reveals that the motor cyclist was none else but the claimant so there is inconsistency/stark contradictions. If the case was actually so, the claim petition ought to have been filed under Section 166 by impleading the brother-in-law as owner and driver of the motor cycle and

sought the compensation being a third party. Even the doctor stated that the claimant had undergone the treatment and surgery but did not establish that injuries were caused on account of road accident.

I have though full sympathy with the appellant the manner in which the claim petition had been presented and dealt with still do not differ with the finding rendered by the Tribunal. The award passed by the Tribunal is upheld and the appeal stands dismissed.

(AMIT RAWAL)
JUDGE

August 29, 2017
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No