

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

FAO No.885 of 2011 (O&M)
Date of decision: February 15, 2017

Shish Pal

... Appellant

Versus

Satpal and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. A.K. Chauhan, Advocate for
Mr. Arvind Singh, Advocate for the appellant.
Mr. Maharaj Kumar, Advocate for respondent No.1.

Rajan Gupta, J.

CM-2388-CII-2011:

This is an application under Section 5 of the Limitation Act seeking condonation of 36 days delay in filing the appeal.

For the reasons mentioned in the application, same is allowed and delay in filing the appeal is condoned.

FAO-885-2011:

Appellant/claimant has impugned the award dated 20.7.2010, passed by Motor Accident Claims Tribunal, Karnal, whereby claim petition filed by him under section 166 of the Motor Vehicle Act for grant of compensation, has been dismissed.

Learned counsel for the appellant has argued that tribunal has failed to appreciate that there was no rebuttal to the evidence led by the claimant/appellant regarding negligence of respondent no.1. Thus, impugned award deserves to be set-aside.

Learned counsel for respondent No.1, on the other hand,

submits that the tribunal has rightly dismissed the claim petition filed by the appellant as he failed to prove any rash or negligent driving on the part of respondent No.1.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

Accident is alleged to have occurred on 16.9.2007. As per appellant, he was driving motor cycle No.CH-03-H-6711 when another motor cycle No.HR-06-0688 hit his motorcycle. Appellant filed a claim petition under section 166 of the Act against driver and owner of the motorcycle. The tribunal dismissed the same by observing that claimant failed to prove rash and negligent driving of respondent No.1 while driving the vehicle in question. A perusal of award shows that after the accident, FIR No.364 dated 17.9.2007, under sections 279, 337 and 336 IPC was registered against the appellant. The appellant could not produce any document to show that he made any complaint to any higher police authorities regarding his false implication in the aforesaid criminal case. Therefore, the appellant is not entitled to any compensation by filing a claim petition. Apparently, there is no error or infirmity in the findings arrived at by the Tribunal. The appeal is without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

February 15, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No