IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1591 of 2014 (O&M)
Date of Decision: 11.10.2017

Mahabir Kumar

... Appellant

vs.

Vikram Singh & Ors.

... Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present:- Mr. S.K. Yadav, Advocate
for the appellant.

Mr. Sanjeev Kodan, Advocate
for respondent No.3.

ANITA CHAUDHRY, J.

The appellant-claimant is aggrieved of the award dated 09.10.2013 passed by the Motor Accident Claims Tribunal, Narnaul (for brevity, the Tribunal) dismissing the claim petition filed by him seeking compensation on account of the injuries sustained by him in a motor vehicular accident on 22.07.2010. It was alleged that the accident had occurred on account of negligent driving of car No. HR10A-8700 by respondent No.1. The vehicle was owned by respondent No.2 and insured with respondent No.3.

The driver and owner denied the accident and claimed that it did not occur in the manner alleged.

The insurance company denied its liability to pay any compensation to the claimants and that there was collusion between the parties and car was introduced to grab compensation.

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On appraisal of evidence led by the parties, the Tribunal dismissed the claim petition, leading to the institution of present appeal.

I have heard learned counsel for the parties and have carefully gone through the paper-book.

Learned counsel for the appellants had urged that there was ample evidence in the shape of testimony of claimant, which was duly corroborated by his uncle Manjeet Singh (PW4), who witnessed the accident and it was proved beyond doubt that the accident occurred due to rash and negligent driving of offending vehicle by respondent No.1. According to him, medical evidence was produced to prove that the claimant suffered disability to the extent of 80%. As the vehicle was insured with respondent No.3, the insurance company ought to have been fastened with liability to pay the compensation, but the Tribunal below has erred in dismissing the claim petition on the ground of collusion.

Learned counsel for insurance company has supported the impugned award.

After going through the records, in the considered opinion of this Court, there is no merit in the appeal. It was claimed that Manjeet Singh(PW4) was the eye-witness. He was uncle of the claimant, still the FIR was lodged after an inordinate and unexplained delay on 30.07.2010. The injured, eye witness and the driver of the offending vehicle were residents of same village. No independent witness was produced to corroborate their testimonies. The manner in

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which the claimant sustained injuries was doubted by the Tribunal and in para No.11 of the impugned award it was held as under:-

> *"11. PW-1 Dr. Arun Kalra has proved the MLR Ex.PW1/A, which shows that the petitioner was admitted in General Hospital, Narnaul on 22.07.2010 with alleged history of road traffic accident and he was got admitted by his uncle Manjeet Singh. Now, the question for determination is whether the petitioner has been able to prove that the accident in question was caused by respondent no.1 by driving the alleged offending vehicle which is a Maruti car owned by respondent no.2. The petitioner and respondent no.2 was owners of the same village. It is admitted that the petitioner was taken to SMS Hospital, Jaipur for treatment. In admission and discharge record Ex.PW6/A prepared by SMS Hospital, Jaipur it is mentioned that the patient had sustained injuries as the steering wheel of his vehicle hit against a tree while driving on 22.07.2010. In this document it is not mentioned that the vehicle of the petitioner was hit by any car. The MLR Ex.PW-1/A shows that the petitioiner had sustained three injuries on his forehead, nose and eyes. Had petitioner fallen on the road due to hit by a car he would have sustained injuries on other parts of the body also. Since the petitioner had suffered injuries on his forehead, nose and eyes only it may be presumed that the first version told by the petitioner to the doctor which has been mentioned in admission and discharge record Ex.PW-6/A is correct. The FIR was got registered*

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> *on 30.07.2010 i.e. after 8 days. The petitioner and owner of the alleged offending vehicles are residents of same village. PW-4 Manjeet, the alleged eye witness of the accident, is uncle of the petitioner. No independent witness has been examined by the petitioner despite the fact that the accident in question took place at a public place at 10 AM. All these facts clearly proved that the alleged offending vehicle has been falsely involved by the petitioner in this case. Therefore, this issue is decided against the petitioner."*

Keeping in view the aforesaid circumstances and observations, the Tribunal had rightly concluded that the claimant had failed to prove that he sustained injuries in a road side accident in the manner as alleged and the vehicle was implicated and there was collusion between the claimant and private respondents. The findings are based on the evidence adduced on record. No ground for interference is made out. The appeal is dismissed.

11.10.2017 **(ANITA CHAUDHRY)**
Jiten **JUDGE**

Whether speaking/ reasoned Yes/ No

Whether reportable Yes/ No

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