

**In the High Court of Punjab and Haryana at Chandigarh**

**F.A.O No. 5119 of 2013  
Date of Decision: 26.4.2017**

Kuldeep Singh

.....Appellant

Versus

Sukhvinder Singh and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. Sanjay Verma, Advocate  
for the appellant.

Mr. Subhash Goyal, Advocate  
for respondent No. 3.

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**ANITA CHAUDHRY, J**

This appeal is by the claimant whose claim petition was dismissed by the Tribunal as it was held that the delay in the FIR was on account of the fact that a vehicle had been introduced, the version given by the claimant was not found to be truthful and it did not inspire confidence.

Kuldeep Singh met with an accident on 6.3.2012. He was going alone on his motor cycle towards his village at 11.00 A.M. Respondent No. 1 came in a car and dashed against his motor cycle by coming from wrong side of the road. He sustained a fracture on the forehead and injuries on his entire body. It was claimed that respondent No. 1 stopped for some time and the claimant noted the number of the car and the driver thereafter fled.

The facts reveal that some unknown person shifted the injured to a hospital in Kurukshetra from where he was referred to NINS Hospital, Sector-34, Chandigarh. Ruqa was sent by the hospital. The police arrived in

13.3.2012. The appellant was discharged from the hospital on 20.3.2012. The discharge summary shows the date of discharge as 20.3.2012. However, Ex. P-6 shows that the patient was unfit to make the statement even on 30.3.2012. There is an overwriting on the date. On the back of Ex. P-6, opinion was given by the medical officers that the patient was fit to make the statement on 24.4.2012 and even on 30.4.2012. No statement was given. The FIR was lodged on 1.5.2012. The Tribunal noted that Kuldeep Singh was admitted in the hospital with head injury and there was a depressed fracture of the frontal bone and there was a lacerated cut over the forehead extending to the upper ridge nose and there was a profused bleeding and the patient was unconscious at the time of admission. It also noted that there was a delay in lodging the FIR. The manner in which the accident was stated in the cross-examination was found to be contradictory to what was claimed in the claim petition. It noted that the injured was discharged in a satisfactory condition on 20.3.2012 and strangely the doctors made a report that the patient was unfit even on 30.3.2012 and there was tampering in the criminal case file which showed that at every stage, the doctors and the police had been manipulated. It noted in para 15 of the award that there was tampering in the date of discharge as well and the statement of the claimant did not inspire confidence.

I have heard the counsel for both the sides.

The statement on behalf of the appellant is that even a delay of three month in lodging the FIR was not fatal in ***Ravi versus Badrinarayan and others 2011 AIR (SC) (Cri) 594*** and the injured was not in a fit condition to make a statement and he had made a statement to the police on 1.5.2012 and the claim petition should not have been dismissed merely on

account of the fact that there was a delay in the FIR and the findings be set aside and the matter be remanded to the Tribunal to decide the case again.

On the other hand, the submission on behalf of the respondent is that they had produced the admission slip in the first hospital where the injured was taken and it would show that the patient was conscious and oriented and he had given the history of roadside accident which occurred half an hour ago and he was referred to NINS Hospital, Sector-34, Chandigarh. It does not give the name of the person who had brought the injured to the hospital. It was urged that no ruqa was sent from that hospital as the injured did not give the details to the doctor and when he was shifted to NINS Hospital and Ruqa was sent from NINS and the police arrived in the hospital but the doctors had declared him unfit and the date of discharge in Ex. P7 is 20.3.2012. It was urged that it was not the case of the claimant that he was admitted again in NINS Hospital. Therefore, the opinion given on Ex. P6 is doubtful and there is a cutting on the date which has been changed to 30.3.2012. It was urged that opinion of the doctors was again taken on 24.4.2012 and 30.4.2012 wherein the doctors had stated that the patient was fit to make a statement and there is no evidence that the claimant was not in good a condition to make a statement and time had been used to introduce a vehicle and the driver ultimately named belongs to the same village and the Tribunal has noted that the claimant had tried to manipulate the police and the doctors at every stage.

Counsel for the appellant had also stated that the trial against the driver was still continuing. However, its status was checked from the internet which reveals that the driver was acquitted on 7.10.2013. From the history of the case hearing it appears that the witnesses had turned hostile

and therefore the case was never fixed for the statement under Section 313 Cr.P.C. or for DWs.

Each case has to be decided on its own facts. The appellant had referred to *Ravi versus Bardinarayan's* case (supra) but there the facts were entirely different. The person who had caused the accident was a neighbour and talks of compromise were going on. There was a reference to this fact that the *Biradari* panchayat was pressurizing the injured to sort out the matter amicably since the driver was his neighbour. On these facts, the delay was held to be not fatal. In the present case, the facts are entirely different. The claimant stated that after he was hit and was conscious for some time and noted the details of the vehicle but strangely he did not provide any details to the doctor in Aggarwal Hospital where he was first taken though, he was conscious at that time. It is, however, difficult to believe his statement that after sustaining a fracture on the head he was still able to get up and note the number of the speeding vehicle. There are several other reasons which have been referred to by the Tribunal. It is difficult to believe the version put-forth by the claimant. It is a case where the vehicle has been introduced. The claimant failed to make a statement to the police when he had been approached twice even after his discharge, the reasons are obvious.

I find no merit in the appeal.

The appeal is dismissed.

**(ANITA CHAUDHRY)**  
**JUDGE**

**April 26, 2017**

Gurpreet

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|----------------------------------|---|------------|
| <b>Whether speaking/reasoned</b> | : | <b>Yes</b> |
| <b>Whether reportable</b>        | : | <b>Yes</b> |