

***IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH***

FAO No.5252 of 2014

Date of Decision:-21.03.2017

Ram Kumar

...Appellant

Versus

Santram alias Setia alias Lal and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. J.P. Sharma, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for respondent No.3-Insurance Company.

HARI PAL VERMA J.(Oral)

Appellant-Ram Kumar son of Raghunath, resident of Village Mukandpura, Tehsil Narnaul, District Mohindergarh has filed the present appeal against the award dated 23.1.2014 passed by learned Motor Accident Claims Tribunal, Narnaul, whereby the claim petition filed under Sections 166/140 of the Motor Vehicle Act was dismissed.

The claim petition was dismissed on many grounds including the fact that Hansraj son of the petitioner, who lodged the FIR (Ex.P1) himself did not appear as a witness to prove the contents of the FIR (Ex.P1). Similarly, for the injuries sustained by the claimant alleging therein that the offending tractor had ran over the head of the petitioner, there is no opinion

of the doctor to show that the head injury was ever suffered by the petitioner in the accident.

Learned counsel for the appellant has argued that the accident was caused by respondent No.1 by his tractor and even if the son of the petitioner, who is author of the FIR namely Hansraj has not come forward to give his statement, it is not fatal for the claimant to get compensation under the Act. The appellant has been able to prove the accident and, therefore, is entitled for compensation as claimed in claim petition.

On the other hand, learned counsel for the respondent-insurance company has argued that since the claimant has failed to prove the motor accident as well as the injury caused in the accident, the MACT has rightly dismissed the claim petition.

I have heard learned counsel for the parties.

The alleged accident took place on 10.08.2012 whereas the FIR in question was registered on 19.08.2012. The son of the petitioner namely Hansraj, who is stated to be an eye witness, has not been examined by the claimant in support of his case. There is no opinion of the doctor to show that the head injury suffered by the petitioner was due to running of the tractor tyre over his head. The medico legal Report (Ex.P8) is already on record. Even the testimony of PW2 Kailash that the accident was witnessed by him was also not accepted by the learned Tribunal for the simple reason that Hansraj son of the petitioner, who is author of the FIR, has nowhere stated that the accident was witnessed by PW2 Kailash.

Therefore, considering the fact that even the son of the

petitioner namely Hansraj has not come forward in support of the claim petition, the Tribunal has rightly recorded the finding that no accident has occurred.

Hence, the present appeal is hereby dismissed.

March 21, 2017
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No