

115.

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

FAO-7664-2016 (O&M)

Date of decision:13.01.2017

Vikas @ Vikas Kamboj

... Appellant

versus

Bunty Sikka and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr.Munish Mittal, Advocate,
for the appellant.

HARI PAL VERMA, J.

The appellant has filed the present appeal against the award dated 15.07.2016 passed by the Motor Accident Claims Tribunal, Karnal, whereby his claim petition filed under Sections 166/140 of the Motor Vehicles Act was dismissed.

Briefly stated, an accident took place on 27.06.2013 and in the said accident, the claimant received multiple serious and grievous injuries on various parts of his body including fracture proximal tibia right, fracture distal femur, fracture knee cap and fracture of both bones of right leg with deep wounds etc.

The said claim petition was contested by respondents No.1 and 2, who are driver and owner of the offending vehicle respectively. On merits, it was submitted that the alleged accident had taken place due to the sole rash, negligent and careless driving of the claimant himself and not on account of respondent No.1.

Before the Tribunal, respondent No.3-Insurance Company by filing separate written statement submitted that no accident ever took place as alleged, much less in the manner stated in the claim petition allegedly involving the Swift Car bearing registration No.HR-12-U-8595. It was also submitted that the driver of the offending vehicle i.e. respondent No.1 was not holding a valid and effective driving licence on the alleged date of accident and the vehicle was being driving in utter violation of the terms & conditions of the insurance policy.

The Tribunal dismissed the claim petition vide judgment dated 15.07.2016 on the ground that the claimant had not approached it with clean hands and, therefore, had no locus standi to file the instant petition. Aggrieved against the said decision of the Tribunal, the claimant has approached this Court through the instant appeal.

Learned counsel for the appellant has argued that the material facts and circumstances of the present case have been totally ignored and the evidence on record has been misread and misinterpreted. The appellant was 22 years of age at the time of accident and was a student of PGDCA in Kurukshetra University and also doing the work of tuition. He further argued that during the pendency of claim petition, the appellant moved an application under Order 6 Rule 17 read with Section 151 CPC for amendment in the claim petition as the medicine bills had been reimbursed to his father being a government employee, but the said application was dismissed on 04.04.2016 without considering the fact that the major portion of the amount was received by the father of the appellant. He further states that due to the accident, the appellant remained admitted in Government Medical College & Hospital, Sector 32, Chandigarh from 27.06.2013 to

09.08.2013 and again from 22.08.2013 to 07.09.2013. He further argued that the learned Tribunal has erred in deciding the claim when most of the reimbursed amount was received by the father of the appellant after filing the claim petition and even otherwise, an amendment application was also filed by him, which shows that there was no bad intention on the part of the appellant at the time of filing the claim petition.

I have heard learned counsel for the appellant.

Considering the fact that the father of the appellant, being a government employee, had taken reimbursement and the expenses incurred by him but the same were not disclosed in the claim petition, is sufficient to dis-entitle the appellant's case. The appellant claimed in the petition that he suffered multiple serious and grievous injuries on various parts of his body. Soon after the accident, he was shifted to LNJP Hospital, Kurukshetra where he was medico-legally examined vide MLR Ex.P5 and, thereafter, he was referred to PGI, Chandigarh for further treatment. Ex.P9-a certificate dated 01.02.2016 issued by Head Master, G.H.S. Muradgarh (Karnal) and a copy of bank passbook-Ex.P10 revealed that reimbursement of the medicine bills amounting to ₹ 41,738/- and ₹1,04,284/- were credited in the account of claimant's father on 14.03.2014 and 25.08.2014 respectively. So it was incumbent upon the claimant-injured to refer those averments regarding reimbursement of medicine bills in the claim petition. The claim petition was filed on 03.07.2014 and the amount which was medially reimbursed in the account of his father on 14.03.2014 was well within his knowledge. Similarly, the fact of reimbursement of medicine bills on 25.08.2014 was also required to be presented before the Tribunal immediately after presentation of the claim petition, but it was not done. It shows that the

claimant had suppressed material facts before the Tribunal.

In view of above, I do not find any merit in the present appeal and the same is, accordingly, dismissed.

CM-153-CII-2017

Prayer in the application filed under Order 41 Rule 5 read with Section 151 CPC is for stay of order dated 15.07.2016 regarding cost imposed by learned Motor Accident Claims Tribunal, Karnal.

Since the main appeal has been dismissed by this Court, the application has become infructuous and is dismissed as such.

(HARI PAL VERMA)
JUDGE

13.01.2017
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No