

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

**Date of decision: 16.11.2017
FAO No.980 of 2016**

1.

Rupesh

....Appellant

Versus

Dharambir and others

....Respondents

2.

FAO No.5965 of 2016

Navjeet

....Appellant

Versus

Dharambir and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Mukesh Yadav, Advocate,
for the appellant (in FAO-980-2016).

Mr. J.P. Sharma, Advocate,
for the appellant (in FAO-5965-2016).

RITU BAHRI J. (Oral)

This judgment will dispose of FAO No.980 of 2016 and FAO No.5965 of 2016 together as both have arisen out of same vehicular accident and common questions of law and facts are involved in both the appeals.

Both these appeals (FAO No.980 of 2016 and FAO No.5965 of 2016) have been filed against the Award dated 14.09.2015 passed by Motor

Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal')

whereby separate claim petitions filed by claimant-appellant(s) under Section 166 of the Motor Vehicles Act seeking compensation on account of injuries received by them in a motor vehicular accident, have been dismissed.

Brief facts of the case are that on 19.04.2014, at about 2:00 P.M., Rupesh Singh and Navjeet (claimant-appellants) were going towards Mohindergarh on a motorcycle bearing registration No. HR-34-D-8009. When they reached near Jatwas turn, a bus bearing registration No.HR-66-8935 being driven by Dharambir-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against their motorcycle, as a result of which, both of them fell down on the road and sustained grievous injuries. One Vikram Singh son of Surajbhan, resident of village Nihalawas had witnessed the said accident. With regard to the accident, FIR No.218 dated 01.05.2014, under Sections 279/337 IPC was registered at Police Station, Mohindergarh. Consequently, the claimant-appellants filed separate claim petitions before the Tribunal.

Upon notice, respondent Nos.1 and 2 i.e. driver and registered owner of the offending vehicle filed their joint written statement by stating that no accident, as alleged by the claimants, had taken place and a false FIR has been got registered in collusion with the police. It was further stated that respondent No.1 was holding a valid and effective driving licence and the vehicle in question was insured with respondent No.3-Insurance Company.

Respondent No.3-Insurance Company filed a separate written statement, wherein it has been stated that on 19.04.2014, respondent No.1-driver was not holding a valid and effective driving licence. All other allegations levelled by claimants-appellants had been denied and prayer for

dismissal of the claim petitions was made.

From the pleadings of the parties, following issues were framed:-

1. Whether petitioners Rupesh and Navjeet sustained injuries in a road accident which took place on 19.04.2014 in the area of village Jatwas (Police Station, Mohindergarh) due to rash and negligent driving on the part of respondent No.1, the driver of bus bearing No. HR-66-8935? OPP
2. To what amount of compensation, if any, and from whom, the petitioners are entitled? OPP
3. Whether respondent No.1 did not hold a valid and effective driving licence, if so, to what effect? OPR-3
4. Relief.

After going through the evidence led by both the parties, the claim petitions have been dismissed by the Tribunal vide impugned Award dated 14.09.2015.

The case set up by claimants-appellants was that they met with an accident on 19.04.2014 and after the accident, they were referred to PGIMS, Rohtak. As per final report Ex.P128, Investigating Officer HC Gunpal Singh had reached the spot, however, nobody was found to be present there. In the final report, it has been further stated that the Investigating Officer had gone to PGIMS, Rohtak, however, the injured were not found present there. Absence of the injured in the hospital shows that they were never admitted in the hospital. In the present case, the accident in question had taken place on 19.04.2014, whereas FIR Ex.P133, had been got registered by Vikram Singh (PW-5) on 01.05.2014 i.e. after

delay of almost 12 days. Though, delay in lodging of the FIR was not fatal to the case of the claimants, but they were required to explain such delay by leading cogent and convincing evidence, which they have failed to do.

After going through the impugned Award, this Court is of the view that the Tribunal has rightly dismissed the claim petitions filed by the claimants, as they have failed to lead any cogent and convincing evidence to prove their case. No illegality, much less perversity, has been found in the impugned Award warranting interference by this Court. The evidence has been appreciated in the right perspective.

Resultantly, finding no merits, both these appeals i.e. FAO No.980 of 2016 and FAO No.5965 of 2016 are dismissed.

(RITU BAHRI)
JUDGE

16.11.2017
ajp

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No