

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

FAO No.5513 of 2017 (O&M)

Date of decision : 08.09.2017

Reliance General Insurance Company Limited

...Appellant

Versus

Deepak and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Sanjeev Kodan, Advocate for the appellant.

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**ANIL KSHETARPAL, J. (ORAL)**

Insurance Company is in appeal against the award passed by the Motor Accident Claims Tribunal awarding a sum of ₹4,31,337/- on account of injuries suffered by the claimant-respondent No.1.

Claimant had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation of ₹20,00,000/- on account of injuries suffered in a motor vehicular accident which took place on 27.11.2014 at 8:30 PM. It was claimed that the respondent No.2 was driving a motorcycle (hereinafter referred to as 'offending vehicle') and due to his rash and negligent driving, he came and hit the claimant who suffered serious injuries. It was claimed that the claimant was initially taken to private hospital at Kosli by his brother but due to his critical condition, he was referred to Medanta Hospital, Gurugram.

In this case, the FIR was registered after a delay of 15 days.

Respondent No.2, owner and driver of the 'offending vehicle', denied the accident. Appellant had pleaded that driver was not holding valid and effective driving licence.

After appreciating the evidence available on the file, Motor Accident Claims Tribunal, found that respondent No.1 was rash and negligent while driving on the day of accident. The Court further assessed the compensation payable at ₹4,31,337/- including expenses on treatment i.e. ₹3,23,337/-.

Learned counsel for the appellant has submitted that in the Medico Legal Report, it is mentioned that the motorcycle being driven by the claimant had slipped and, therefore, he received injuries.

He further submits that delay of 15 days in lodging the FIR remains unexplained. Investigation Officer in the FIR has not been examined. Respondent No.2-owner and driver of 'offending vehicle' himself surrendered the vehicle.

I have heard learned counsel for the appellant at length and with his able assistance gone through the record of the case.

It is not in dispute that the claimant suffered serious injuries in the accident. It is also not in dispute that initially the injured was taken to a private hospital at Kosli and thereafter looking into the serious condition of the claimant, he was referred to Medicity Hospital, Gurugram (Medanta). It is further not in dispute that on the information sent to the police, a police official visited the Medanta Hospital at Gurugram. However, Doctor opined that the injured is not fit to give any statement. Still further, in this case, Deputy Superintendent of Police, Kosli conducted the investigation and

submitted his reports Ex.P18 and Ex.P21, wherein it was found that the accident took place due to rash and negligent driving of the driver of the vehicle. Apart therefrom, the claimant himself has appeared as PW3. He has specifically stated that he received injury in a vehicular accident caused by respondent-driver of the 'offending vehicle'. In view of overwhelming evidence available on the file, an entry in the Medico Legal Report cannot be given preference. It is not proved on whose information this entry was made in the Medico Legal Report. Injured was unconscious. In these circumstances, it will not be appropriate to conclude that the claimant suffered injuries on account of slip of his own vehicle and not due to accident which took place with respondent No.2.

Second argument of learned counsel is that the FIR was registered after 15 days. This issue had been examined by the Motor Accident Claims Tribunal. It has been noticed by the Motor Accident Claims Tribunal that after having met with an accident, the claimant was taken to a private hospital initially at Kosli and thereafter shifted to Medicity Gurugram as the condition of the claimant was quite serious. Still further, in the present case, Deputy Superintendent of Police, has already conducted investigation and submitted report after finding a truth in the story put forth by the claimant, therefore, the delay of 15 days in registration of the FIR cannot be treated as a circumstance to disbelieve the case of the claimant.

Learned counsel for the appellant has further submitted that Investigating Officer has not been examined. Once the report of the Deputy Superintendent of Police, has been proved on the file and exhibited, non-

examination of Investigation Officer cannot be treated as fatal to the case of the claimant.

Last argument of learned counsel is that in the present case, respondent No.2 had himself surrendered the vehicle, therefore, the counsel wants to plead that it is a case of collusion between the claimant and respondent No.2.

I have gone through the statement given by the injured as PW3. No suggestion was given to the claimant in this regard. Cross-examination of the claimant does not show that the attention of the claimant was drawn towards this issue during cross-examination.

For the reasons recorded above, I do not find any good ground to interfere with the findings of fact arrived at by the Motor Accident Claims Tribunal.

Appeal is dismissed.

**08.09.2017**

*Pawan*

**(ANIL KSHETARPAL)  
JUDGE**

**Whether speaking/reasoned:-                      Yes/No**

**Whether reportable:-                                  Yes/No**