

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

FAO No.2631 of 2001 (O&M)
Date of Order: 07.08.2018

Ram Avtar

....Appellant

Versus

Lalit Kumar and another

....Respondents

CORAM: HON'BLE MR. JUSTICE B.S.WALIA

Present: None for the appellant.

None for respondent No.1.

Mr. R.K. Sharma, Advocate
for respondent No.2.

B.S.WALIA, J (ORAL)

1. Challenge is to the dismissal of the claim petition filed by the appellant-claimant for award of compensation on account of injuries sustained by him in a motor vehicular accident on 28.02.1998. The Motor Accidents Claim Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal') vide its award dated 14.03.2001, took into account Challan Chit Ex.R-2 qua evidence that scooter No.HR-19-4372 owned by respondent No.2 was challaned and impounded by the police under Section 207 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), on 27.02.1998 and was released only on 03.03.1998 on levy of fine of ₹200/- by the Court of Shri J.R. Duggal, the then Sub Divisional Judicial Magistrate, Charkhi Dadri. On the basis of the aforementioned evidence,

the learned Tribunal concluded that there was no evidence to show that respondent No.1-Lalit Kumar was driving scooter No.HR-19-4372 on the date of accident i.e. 28.02.1998. Accordingly, it was held that respondent No.2 was not liable to pay any compensation nor was the appellant entitled to claim any compensation.

2. None has appeared on behalf of the appellant. None was present on behalf of the appellant on 27.04.2017, 21.09.2017 or 16.07.2018. Even on 04.07.2018, the case was got adjourned to 16.07.2018 by counsel appearing on behalf of the appellant. In the circumstances, I am not inclined to adjourn the case.

3. Learned counsel for respondent No.2 has reiterated the reasoning advanced by the Tribunal for dismissing the claim petition.

4. I have considered the submissions of learned counsel and having gone over the paperbook, am of the view that for the reasons recorded hereinunder, the appeal is bereft of merit and is accordingly liable to be dismissed as such. Admittedly, the accident took place on 28.02.1998 allegedly with scooter No.HR-19-4372 allegedly driven by respondent No.1 leading to registration of FIR No.44 dated 06.03.1998 against respondent No.1 at Police Station City Dadri for offence punishable under Sections 279 and 338 of Indian Penal Code. Learned counsel for the respondent No.2 states that aforementioned criminal case culminated in the acquittal of respondent No.1 vide judgment of acquittal dated 03.04.2002 passed by the learned Sub Divisional Judicial Magistrate, Charkhi Dadri. Besides there is no evidence to the contrary of the alleged offending scooter having been challaned under Section 207 of the Act or having been

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impounded on 27.02.1998 and of being released only on 03.03.1998, after imposition of fine of ₹200/- by the Court. If that be so, it is beyond comprehension as to how the aforementioned vehicle could have been involved in the accident which took place on 28.02.1998. In the circumstances, the appellant has failed to make out a case warranting interference with the award of the learned Tribunal. The appeal is accordingly dismissed.

August 7, 2018

rajesh.k.khurana

(B.S.WALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No