

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

FAO No.3550 of 2004 (O&M)

Date of decision: 19.03.2018

Dalip Singh (since deceased) through LRs.

....Appellant

Versus

Subhash Chand and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.D. Rattewal, Advocate,
for Mr. Malkeet Singh, Advocate,
for the appellant(s).

None for respondents.

RITU BAHRI J. (Oral)

This appeal has been against the Award dated 18.11.2002 passed by the Motor Accident Claims Tribunal, Fatehabad (hereinafter referred to as 'the Tribunal') dismissing the claim petition filed by the claimant-appellant (since deceased) seeking compensation on account of injuries received by him in a motor vehicular accident which took place on 08.08.1999.

Brief facts of the case are that on 08.08.1999, at about 8.30/9.00A.M., Dalip Singh-appellant (since deceased) along with his wife Jagir Kaur was going on foot towards Baba Rice Mills, situated at Hanspur road, Fatehabad. When they reached near the said mills, a bus bearing registration No. HR-39-2022 belonging to Sarswati Co-operative Society, being driven by respondent No.1-Subhas Chand in a rash and negligent manner came from the side of Hanspur and struck against the petitioner, as a result of which, he fell down on the road and his left leg was run over under

the wheels of the said bus. Name of the driver and registration number of the bus were noted down by Smt. Jagir Kaur and her brother Jeet Singh. With regard to the accident, FIR No.362 of 1999 under Section 279/337/338 IPC was registered against respondent No.1 at Police Station, City Fatehabad. Consequently, claimant-appellant filed a claim petition before the Tribunal.

Upon notice, a joint written statement was filed by respondent Nos.1 and 2 taking a plea that a false case had been registered against respondent No.1.

Respondent No.3-Insurance Company filed a separate written statement stating that no accident had taken place on 08.08.1999 and the bus was being driven at a moderate speed in accordance with the traffic rules. As per DDR No.39 dated 13.08.1999 Ex.R6, the accident was not caused by the bus. In fact, it was caused by a canter of green coloured and that too due to the rash and negligence on the part of claimant-petitioner himself. It was further stated that FIR No.362 dated 18.09.1999 was got registered after about 01 month and 10 days from the date of alleged accident. Moreover, it was disclosed by Smt. Jagir Kaur (PW-6), in the said FIR, that the accident was caused by one Sewak Singh resident of Bhattu.

On the basis of evidence led by the parties, the Tribunal has observed that Dr. D.L. Bansal (PW-1) had proved disability certificate (Ex.P3) of Dalip Singh-claimant, according to which, he had become disabled to the extent of 80%. His left leg was amputated. Dr. Inder Sain Gupta (PW-2) testified that he had examined Dalip Singh on 08.08.1999. The said patient was treated for run over injury of the left lower limb. Amputation above knee was done on the left leg and skin grafting was done.

Copy of MLR was proved as Ex.P3. Raj Kumar, Ahlmad (PW-3) had proved copy of challan as Ex.P2. Tribunal has further observed that the version got recorded by the petitioner in DDR No.39 dated 13.08.1999 Ex.R6 was that the accident was caused by green coloured canter, but the canter driver was not at fault. After about 01 month and 10 days, Smt. Jagir Kaur (PW-6) sent a complaint dated 14.09.1999 Ex.P3/A to the DSP, City, in which, it was disclosed that the accident was caused by Sewak Singh, driver of bus No.HR-39-2022. Name of the driver was disclosed in the complaint after about 40 days. Even in the claim petition, Sewak Singh has not been impleaded as driver. Rather, the claimant has impleaded one Subhash Chand-respondent No.1 as driver in his place. In the affidavits Ex.R24 and Ex.R25 executed by Jagir Kaur (PW-6) and her brother Jeet Singh, it was mentioned that the accident was caused by a green coloured canter bearing registration No.HR-39-3491. Dalip Singh-claimant (PW-5) stated that the accident was caused by Subhash Chand, driver of the bus, who was apprehended on the spot by the public. But, no member of the public was associated in the investigation. In his cross-examination, Dalip Singh (PW-5) stated that he had noted down the number of offending bus. The Tribunal observed that if, he had noted down the number of the bus, why he did not disclose the same to the police in the first instance. With these observations, the claim petition filed by claimant-appellant (Dalip Singh) was dismissed. Hence, this appeal.

I have heard learned counsel for the parties and perused the case file.

In the present case, initially, Jagir Kaur (PW-6) in her complaint had stated that driver of the offending vehicle was Sewak Singh.

Subsequently, in the claim petition, Subhash Chand (respondent No.1) was impleaded as driver of the offending vehicle. The claimant could not establish as to who was driving the offending vehicle at the time of accident. Moreover, there was a delay of 40 days in registration of the FIR. Claimant has failed to explain such a long delay in registration of the FIR. After going through the impugned Award, this Court is of the view that the Tribunal has rightly dismissed the claim petition after appreciating evidence in the right perspective. No ground is made out to interfere therein.

Resultantly, finding no merits, present appeal is dismissed.

(RITU BAHRI)
JUDGE

19.03.2018

ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No