

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

FAO No.1448 of 2005

Date of Decision :20.04.2018

Gulab Singh.

....Appellant

VERSUS

Tehal Singh and ors.

...Respondents

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

Present: Mr. Vinod Kanwal, Advocate for Mr. Ashit Malik, Advocate
for the appellant.

Mr. D.P. Gupta, Advocate for respondent No.3-Insurance Company.

B.S. WALIA, JUDGE (ORAL)

1. Challenge is to award dated 16.11.2004 whereby the claim petition filed by the appellant seeking compensation was dismissed on the ground that the claimant had failed to prove that he had received injuries in a vehicular accident rather had concocted a false story about having received injuries in a vehicular accident involving motorcycle No. HR-05K-6082 being driven by his uncle Tehal Singh i.e. Respondent No.1 with a view to grab compensation. The Motor Claims Accident Tribunal, Karnal (hereinafter referred to as the Tribunal) came to a finding that the claim petition was a result of collusion between the claimant and respondent Nos.1 and 2, therefore, the claimant-appellant was not entitled to any compensation.

2. Learned counsel for the appellant contended that PW-2 i.e. the appellant was the best witness and he had stated that he had received injuries in an accident involving motorcycle No.HR-05K-6082 being driven by his uncle Tehal Singh

while he was riding pillion on the said motorcycle. The motorcycle which was being driven rashly by his uncle rammed into cattle going on the road due to his inability to control the fast moving motorcycle. No FIR was registered but a DDR was got registered after 48 hours of the accident stating that the accident had taken place by chance and not due to any negligence of the driver of the motorcycle i.e. Tehal Singh, his uncle.

3. Initially, claim petition was filed under Section 163-A and 166 of the Motor Vehicles Act but subsequently the petition was converted exclusively under Section 166 of the Motor Vehicles Act.

4. Learned counsel for respondent No.3-Insurance Company contended that the claim was concocted to seek compensation since firstly no FIR was registered and secondly in the claim petition neither was any mention made of DDR having been registered after 48 hours of the accident nor was any averment made in the claim petition or for that matter, the written statement that the claimant and Tehal Singh-respondent No.1 were related to each other and the relationship came to light when the claimant appeared in witness box as PW-2. Learned counsel further contended that while in the claim petition allegation was of Tehal Singh having driven the motorcycle rashly and negligently yet the DDR reflected otherwise since the same states that the accident occurred by chance and not on account of negligence of Tehal Singh. Learned counsel contended that it was thus, apparent that the DDR was got registered only with a view to create evidence of an accident having taken place. Learned counsel further contended that the claim being a false claim was further borne out from the fact of contradictory version given in the claim petition and DDR for while in the claim petition it was mentioned that Tehal Singh was driving the vehicle rashly and could not control

the cattle wherein in DDR No.4 Ex.P2, it is mentioned that the two buffaloes started fighting with each other and came on the road and hit the motorcycle. Learned counsel further contended that despite the stand of PW-2 that the place of accident was a busy road but no public witness was cited. Learned counsel also contended that although PW-2 stated that a person was following the two buffaloes who suddenly started fighting each other yet no mention of the same was made in the DDR Ex.P-2.

5. The Tribunal by taking into account all aspects of the matter as also the fact that respondent No.1 was the real uncle of the claimant and in all probability the claimant had not received injury in the accident involving the motorcycle allegedly driven by Tehal Singh as also the DDR held that the claimant had failed to prove that he had received injuries in the vehicular accident rather had concocted a false story and the claim petition was a result of collision between the claimant and respondent Nos.1 and 2, dismissed the claim petition.

6. Learned counsel for the appellant has not been able to show as to how the findings recorded by the learned Tribunal with regard to claim being false, concocted and result of collusion are incorrect.

In view of the position as noted above, I find no infirmity with the order of the learned Motor Accident Claims Tribunal, Karnal dismissing the claim petition. Accordingly, the appeal being bereft of merit is dismissed.

(B.S. WALIA)
JUDGE

April 20, 2018

ps

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No