

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.164 of 2005(O&M)
Date of Decision: 19.02.2018

Prem Singh

... Appellant

Versus

Dalbir Singh & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sushil Bhardwaj, Advocate,
for the appellants.

Mr. Vinod Chaudhary, Advocate,
for respondent No.3-Insurance Company.

AVNEESH JHINGAN, J.(Oral)

The present appeal has arisen from award dated 07.10.2004 passed by the Motor Accident Claim Tribunal(for short 'the Tribunal'), Karnal.

The record of this case was burnt and has been reconstructed from the salvaged record and copies supplied by counsel, subject to all just exceptions.

The appeal has been filed being aggrieved of dismissal of the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act')

An accident took place on 29.03.2001. Appellant-Prem Singh was a Cleaner in truck bearing registration No.HR-07-7421. He along with respondent No.1, who was driving the said vehicle, were coming back from Kaithal after unloading the rice husk to Village Sonti. When the vehicle reached near Pipli Chowk, Kurukshetra, at about 12.30 a.m., all of a sudden an unknown truck came from Karnal side and struck into the vehicle in which the appellant was travelling. The appellant suffered injuries. FIR dated

29.03.2001 was registered on the statement of respondent No.1 in Police station Sadar Thanesar.

A claim petition was filed claiming compensation for injuries suffered by the appellant. The said petition was dismissed by the Tribunal as the claimant failed to prove the rash and negligent driving of the truck in which he was travelling.

As per the claim petition, the accident occurred due to rash and negligent driving of an unknown truck. But during the claim proceedings, the appellant took a stand that accident occurred due to contributory negligence of the drivers of both the vehicles. Apart from, there being contradiction between the stand taken and the facts averred in the claim petition, no evidence was adduced to prove rash and negligent driving of truck in which the appellant was travelling. Rather, in FIR it was stated that accident occurred due to rash and negligent driving of unknown vehicle.

Under Section 166 of the Act, the onus is casted upon the claimant to prove not only the involvement of the offending vehicle but rash and negligent driving of offending vehicle.

In the present case, even respondent No.1 never appeared to support the claim petition of the appellant. In absence of any evidence on record, no fault can be found in the award passed by the Tribunal dismissing the claim petition.

The appeal being bereft of any merit is dismissed.

19.02.2018
monika

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No