

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

FAO No. 1779 of 2006 (O&M)

Date of decision: 19.02.2018

Namita

.... Appellant

Versus

Dr. Nirmal Singh Panesar and another

..... Respondents

2.

FAO No. 1780 of 2006 (O&M)

Rakesh Verma

.... Appellant

Versus

Dr. Nirmal Singh Panesar and another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present : Ms. Aarti Thakur, Advocate  
for the appellant.

Mr. Puneet Jain, Advocate for  
Mr. Rakesh Gupta, Advocate  
for respondent No.1.

Mr. Paul S.Saini, Advocate  
for respondent No.2-Insurance Company.

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**Avneesh Jhingan, J.**

The present appeals have arisen from award dated 24.02.2006 passed by Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal').

The record of these cases were burnt and have been

reconstructed from the salvaged record and copies supplied by counsel, subject to all just exceptions.

The appeals have been filed being aggrieved of dismissal of two claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

On 24.10.2004, Rakesh Verma along with Namita was going on scooter bearing registration No.CH-03-D-8737. They met with an accident with a car bearing registration No.CH-03-3436. The accident took place near light point of Chandigarh Housing Board, Manimajra at about 7.40 a.m. As a result of the accident, both Rakesh Verma and Namita suffered injuries and were taken to PGI, Chandigarh in the police van.

After 7 days of the accident on 31.10.2004, a DDR was recorded on the statement of Rakesh Verma. In the said DDR, it was mentioned that the scooter hit the car and the accident took place by chance. It was further stated that they are not interested in pursuing any criminal proceedings but they will file the claim in Civil Court.

Two separate claim petitions were filed by Rakesh Verma and Namita. Under Section 166 of the Act, the onus was on the claimants to establish that the offending vehicle was driven rashly and negligently. Apart from the self serving statements of the claimants, no evidence was brought on record to show that the accident occurred because of rash and negligent driving of the car. DDR was rightly relied upon by the Tribunal because even after an interval of seven days, Rakesh Kumar so stated that the accident took place by chance only.

Learned counsel for the appellants relied upon the later portion of the DDR to state that the claimants had reserved their rights to file claim in the Civil Court. There cannot be any dispute. Even without reserving such rights, it is always open for the appellants to invoke their legal remedies whatever are available. This will not mean that the fact stated in the DDR that the accident took place by chance can be ignored. The appellants miserably failed to prove the rash and negligent driving of the car.

In such circumstances, appellants failed to discharge onus casted upon them by Section 166 of the Act. No fault can be found in the award of the Tribunal in dismissing the claim petitions.

The appeals being bereft of any merits, are dismissed.

**(AVNEESH JHINGAN)**  
**JUDGE**

**19.02.2018**

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1. Whether the order is speaking/reasoned: Yes/No

2. Whether the order is reportable : Yes/No