

101.

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

FAO-4501-2008

Date of decision:22.03.2018.

NISHAR

... Appellant

Versus

PAPPU AND ORS.

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Vikas Kumar, Advocate,
for the appellant.

Mr.J.S. Hooda, Advocate,
for respondent No.1.

Ms. Monika Jangra, Advocate, and
Ms. Vandana Malhotra, Advocate,
for respondent No.3-Insurance Company.

HARI PAL VERMA, J.(Oral)

Appellant-claimant has filed the present appeal impugning the award dated 06.06.2008 passed by Motor Accident Claims Tribunal, Faridabad, (for short, "the Tribunal") whereby his claim petition filed under Section 166 of the Motor Vehicles Act for grant of compensation, was dismissed.

After hearing learned counsel for the appellant and finding contradiction in the statement of PW2, this Court finds that there is no illegality in the impugned award. The Tribunal has noted the contradictions in paragraphs 17 and 18 which read as under:-

"17. As far as the present issue is concerned in order to prove the same, the first and foremost factor to be established by the petitioner is that the respondent No.1 was driving the motor cycle No.HR-29-N-3342. As far as this fact is concerned, the perusal of the contents of the F.I.R. and the contents of the petition and contents of the testimonies of PW-1 & PW-2 shows number of

contradictions such as: firstly-in the F.I.R. Ex.P-1, it has been mentioned that the registration number of the motor cycle was not written on the number plate and on number plate, A/F was written statement, in place of registration number plate but in the petition, the registration number of the motor cycle has been mentioned, secondly in the F.I.R., the colour of the motor cycle has been disclosed to be of silver, but the PW-2 in his testimonies, has deposed that the colour of the motor cycle was black, thirdly-as per the contents of F.I.R. Ex.P-1, the make of the motor cycle was Hero Honda Passion but as per the copy of registration certificate Ex.R-2, its model was CD Delux, fourthly-as per testimonies of PW-1 and PW-2 vis-a-vis testimony of PW-1 & PW-2, the accident took on 20.1.06 at 5.30 p.m. and the accident was reported to the police in the night on the same day but the F.I.R. of this case was lodged on 21.1.06 p.m. i.e. after a gap of 24 hours from the time of accident and 12 hours from the time of report. The time consumed by the police or the complainant in reporting the matter to the police in recording of F.I.R. leads to the irresistible conclusion that there was sufficient opportunity and ample time for the petitioner to concoct a false story.

18. In the present case, the another significant factor to be noted is that as per the testimony of PW-2, the registration number of the motor cycle was disclosed to him by the respondent No.1 himself. Once the registration number of the motor cycle was disclosed by the respondent No.1 himself and respondent No.1 was lying in the hospital, there was every opportunity for the petitioner or the complainant 'Sirajuddin' to mention the registration number of the motor cycle in the F.I.R. Itself but despite consuming 24 hours in lodging the F.I.R., the petitioner or the complainant Sirajuddin failed to mention the registration number of the motor cycle in the F.I.R. and this lapse shatters the credibility of the testimony of Sirajuddin who happens to be the real brother of the complainant."

In view of aforesaid findings, present appeal is dismissed.

(HARI PAL VERMA)
JUDGE

22.03.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No