

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O. No. 5765 of 2012 (O&M)

Date of Decision: 23.05.2018

U. Suresh

.....Appellant

Versus

M/s Hazara Bus Service and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Harmanjit Singh, Advocate
for the appellant.

Mr. Ajay Pal Singh, Advocate
for respondents No. 1 and 2.

Mr. R.S. Sharma, Advocate
for respondent No.3.

AVNEESH JHINGAN, J.(oral)

The present appeal is against award dated 19.7.2012 passed by the Motor Accident Claims Tribunal, Roop Nagar (for short 'the Tribunal').

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

On 11.6.2010 U. Suresh met with a motor vehicular accident and suffered injuries. He was working in Punjab Power Corporation and was posted at Ropar. It was alleged that the accident occurred due to rash and negligent driving of the bus bearing registration No.PB-12-C-9181. Before the Tribunal the owner of the bus was impleaded as respondent No.1; driver as respondent No.2 and insurer as respondent No.3, respectively,

There is no dispute on the proposition that in a claim petition

filed under Section 166 of the Act, twin onus is to be discharged by the claimant i.e. involvement of the offending vehicle and rash and negligent driving of the offending vehicle.

In the present case, the Tribunal dismissed the claim petition on the ground that the claimant failed to prove rash and negligent driving of the offending vehicle.

Learned counsel for the appellant argued that the facts that the claimant met with an accident, there was a DDR and a compromise between the claimant and the owner of the offending vehicle were proved before the Tribunal. His argument is that all this prove that the offending vehicle was involved in the accident.

At this stage, it would be appropriate to quote the pleadings in the appeal. Para 7 of the same are quoted below:

".....7.That it is relevant to mention here that no promise was fulfilled and no compensation was given to appellant by the respondents except one Rs.20,000/- which was given in hospital where petitioner was on bed for more than four months, he suffered pain and agony was absent from the duty without pay for four months....."

The said pleadings clearly indicate that there was a compromise between the parties. This itself will not debar the appellant from claiming the compensation. The basic ingredient is to establish that the accident occurred due to rash and negligent driving of the offending vehicle is missing. All evidence and documents relied upon only show the involvement of the offending vehicle. It is a fact that no FIR was got registered, no criminal proceedings took place and there is not even an iota of evidence to prove rash and negligent driving of the driver of the offending vehicle.

In such circumstance, no fault can be pointed out in the findings given by the Tribunal.

The appeal is accordingly dismissed.

23.05.2018
reema

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No