

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No1046 of 2015

Date of Decision: 22.02.2018

Siraj Khan

....Appellant

V/S

Ali Mohammad and Anr

....Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Virendra Rana, Advocate,
for the appellant.

Mr. Rajesh Lamba, Advocate,
for respondent No.1.

Mr. T.K. Joshi, Advocate,
for respondent No.2.

RITU BAHRI, J.(Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Mewat (hereinafter referred to as 'the Tribunal') vide award dated 13.11.2014, on account of injuries sustained by Siraj Khan in a motor vehicular accident which took place on 07.09.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 07.09.2013, the petitioner started from Tauru to his village Lakhnaka on his motorcycle No. HR 52 C 0985. At about, 07.00 P.M., when he reached near Dhenki turn, in the meantime, dumper No. HR-55-D-6113(hereinafter referred to as the offending vehicle) driven by respondent No.1 in a rash and negligent manner, came from back side and hit the motor cycle of the petitioner from

back side. The petitioner fell down along with his motorcycle and sustained serious multiple injuries on his person. He noted down the registration number of the offending vehicle. It has been averred that the accident in question took place due to the sole rash and negligent driving of offending vehicle by respondent No. 1.

Consequently, claimants-appellants filed a claim petition before the Tribunal.

From the pleadings of the parties, following issues were framed by the then learned Tribunal, on 27.3.2014:-

- (1) Whether the accident in question resulting into multiple injuries to petitioner took place on 07.09.2013 in the jurisdiction of Police Station Nuh, because of rash and negligent driving of vehicle bearing registration No. HR-55-D-6113 by its driver/respondent NO. 1? OPP
- (2) If issue No.1 is proved, whether the petitioner is entitled to compensation. If so, to what amount and from whom? Opp.
- (3) Whether respondent No. 1 was not having a valid and effective driving licence at the time of accident. If so, to what effect? OPR-2.
- (4) Relief.

On the basis of evidence led by the parties, the Tribunal dismissed the claim petition of the petitioner/claimant on the basis of FIR in this case was lodged only on 23.09.2013 got lodged by the petitioner and eye witness namely Maksood was also known to the claimant.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants.

Feeling dissatisfied with the impugned award, the claimant-appellant have preferred the present appeal.

I have heard learned counsel for the parties and perused the record.

A perusal of the award shows that, accident took place on 07.09.2013, whereas an FIR in the present case was lodged on 23.09.2013 i.e. After 16 days of the occurrence. Petitioner examined Maksood, an alleged eye witness, as PW2, who tendered in evidence his affidavit Ex. PW2/A. However in his cross-examination, he has admitted that he know the driver of the alleged dumper prior to the alleged accident as he is neighbour. He has further admitted that after the alleged accident the driver of the alleged vehicle fled away from the spot with his vehicle and also admitted that he has seen the alleged vehicle from a distance of 10-15 feet.

Therefore, once it is proved that, driver known to the claimant personally and also no accurate reason has been explained by him as to why FIR was got lodged after 16 days of the occurrence. Therefore, it is clear that driver and the offending vehicle have been planted in this case. Hence, the impugned Award, the orders of the learned Tribunal does not reflect any material irregularity or perversity which warranting interference. Hence the present appeal stands dismissed.

22.02.2018

Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes
Whether reportable No