

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

Sr. No.211-2

FAO No.2069 of 2015 (O&M)
Date of decision: 19.11.2018

Saint Lawrence Senior Secondary School Appellant

versus

Rupinder Singh and another Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Harsh Aggarwal, Advocate
 for the appellant.

 Mr. Deepak Bhardwaj, Advocate
 for respondent No.1.

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DEEPAK SIBAL, J. (Oral)

The present appeal has been filed by the owner of bus bearing registration No.PB-11-V-0835 (for short – the offending vehicle) to challenge therein award dated 02.07.2014 passed by the Motor Accident Claims Tribunal, Patiala (for short – the Tribunal).

The facts, in brief, which are required to be noticed for adjudicating upon the present appeal are that on 23.11.2011 at about 6.45 A.M., the respondent No.1/claimant was going on a motor cycle being driven by his father Jaspal Singh. When they crossed the bus stand of village Dodhara, his father stopped the motor cycle to urinate. At that time when the respondent/claimant was standing near the motor cycle, he was hit by the offending vehicle as a result of which he sustained injuries. A FIR

was got lodged by his father against the driver of the offending vehicle for rash and negligent driving. A claim petition under Section 166 of the Motor Vehicles Act, 1988 was also filed.

After sifting the evidence which was led by the parties, the Tribunal, came to the conclusion that the offending vehicle was being driven in a rash and negligent manner. Thereafter, the payable compensation was assessed and awarded by the Tribunal. However, the claim was directed to be paid by the appellant/owner as admittedly the offending vehicle was not insured. It is in these circumstances that the present appeal has been preferred by the appellant-owner.

Learned counsel for the appellant submits that no accident had taken place as claimed by the respondent/claimant as the FIR for rash and negligent driving by the driver of the offending vehicle had been got lodged by the father of the claimant after 21 days of the alleged accident and that Bant Singh, who was an eye-witness to the alleged accident was never produced before the Tribunal.

Countering the above submissions, learned counsel for the respondent/claimant submits that through the testimony of CW-1 Jaspal Singh, who was also an eye-witness to the accident, it had duly been proved that the respondent/claimant received injuries as a result of the accident which had taken place between himself and the offending vehicle which was being driven in a rash and negligent manner. He further relied upon the FIR as also the order dated 22.05.2012 (Annexure A-1) through which, the driver of the offending vehicle had been charged by the Criminal Court for rash and negligent driving of the offending vehicle.

After considering the above submissions as also perusing the

record, I am of the opinion that there is no merit in the appeal.

CW-1 Jaspal Singh categorically stated before the Tribunal that he had witnessed the offending vehicle being driven rashly and negligently by its driver resulting in the accident which caused injuries to the respondent/claimant. Though he was subjected to lengthy cross-examination by learned counsel for the appellant, he stood his ground. Further, a FIR was got registered by the minor claimant's father in which he had categorically stated that his son had received injuries as a result of the accident that he had met with the offending vehicle which was being driven in a rash and negligent manner. The delay in lodging of the FIR would not support the appellant's case in any manner for the reason that the FIR was investigated which found that the driver of the offending vehicle had driven the offending vehicle in a rash and negligent manner resulting in the accident which caused injuries to the respondent No.1/claimant. The police submitted a report in that regard under Section 173 Cr.P.C. before the Criminal Court. Not only that, the Criminal Court after going through the contents of the aforesaid report filed by the police under Section 173 Cr.P.C., through order dated 22.05.2012 also charged the driver of the offending vehicle for rash and negligent driving by him.

So far as non-production of Bant Singh, is concerned that also would not in any manner dent the respondent No.1/claimant's case as another eye-witness Jaspal Singh, who had been produced, not only proved the accident but also the fact that the same was caused due to the rash and negligent driving of the driver of the offending vehicle. As observed earlier, his testimony was subjected to lengthy cross-examination but nothing could be extracted from him which would in any manner support the appellant's

case.

No other point was urged.

Dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

November 19, 2018
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No